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**AMENDMENTS TO TITLE I (LEAA) OF THE OMNIBUS
CRIME CONTROL AND SAFE STREETS ACT**

HEARING
BEFORE THE
SUBCOMMITTEE ON
CRIMINAL LAWS AND PROCEDURES
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
NINETY-FOURTH CONGRESS

SECOND SESSION

ON

**1297, S. 1598, S. 1601, S. 1875,
212, S. 2245 and S. 3043**

, 22, 23, NOVEMBER 4, DECEMBER 4, 1975 AND
MARCH 17, 1976

for the use of the Committee on the Judiciary

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ON
S. 460, S. 1297, S. 1598, S. 1601, S. 1875,
S. 2212, S. 2245 and S. 3043

OCTOBER 2, 8, 9, 22, 23, NOVEMBER 4, DECEMBER 4, 1975 AND
MARCH 17, 1976

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AMENDMENTS TO TITLE I (LEAA) OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

THURSDAY, OCTOBER 2, 1975

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 1318, Dirksen Senate Office Building, Senator John McClellan (chairman of the subcommittee) presiding.

Present: Senators McClellan (presiding), Kennedy, Hruska, and Thurmond.

Also present: Paul C. Summitt, chief counsel; Dennis C. Thelen, deputy chief counsel; Mabel A. Downey, clerk to the subcommittee.

Senator McCLELLAN. The committee will come to order. I shall make an opening statement for the record in order to put these hearings in their proper perspective. In 1968 the Congress enacted the Omnibus Crime Control and Safe Streets Act, primarily in response to the growing concern of our citizens with the violence and lawlessness resulting in a continuing rise in the rate of crime.

This act created the Law Enforcement Assistance Administration in the Department of Justice and charged that administration with the innovative idea of setting up a funding program to assist States through the use of Federal funds to strengthen and improve law enforcement at every level of our criminal justice system.

To carry out the concept that crime is primarily a local problem, the Congress adopted a "bloc grant" idea in dispersing Federal funds to the States—State planning agencies were authorized as a single agency within a State to coordinate all programs within its jurisdiction.

Now 7 years and over \$4 billion later we are still faced with serious crime problems. The crime rate increased 13 percent during the first 6 months of this year over the same period in 1974.

Citizens are still afraid to venture from their homes in many cities, and extra safety precautions are taken by many people in our daily activities.

I believe it is time to examine and assess the LEAA programs and aims. My concern is twofold: First, in view of our economic situation, we must examine every outlay of Federal funds and make a studied determination that there is ample justification for such expenditures and that we are getting value received for the funds being expended.

Second, I am concerned as to whether we are taking the right approach in our efforts and purpose to improving our criminal justice system.

Thus far we have not reduced the crime rate—by pouring out money—by continuing to experiment—to drop a project in favor of a new one—to close prisons—to set up “community based” programs and so forth. Seven years should have given us time in which to evaluate, at least to some extent, the effectiveness—or lack of effectiveness—of the approach that heretofore has been pursued.

Criticism has been voiced that perhaps the method of setting up a State planning agency should be altered and that State legislatures should have more voice in the review and administration of LEAA activities in their particular state. Senator Morgan is expected to address this point in his testimony today.

There has been criticism that there had been inadequate evaluations of existing programs, and that once the Federal grant for a project ends, there is little or no incentive on the part of a state to continue fundings.

We are now being asked to increase the funding for the educational program—LEEP; we are urged to direct more funds to the area of courts and corrections, and to juvenile delinquency programs.

These are just a few of the areas that call for examination. We shall make an effort to determine what is a proper level of funding for the Law Enforcement Assistance Administration during the immediate years ahead.

At the conclusion of my remarks—and those of other members of the committee—I ask that copies of the bills which are the subject of these hearings, with the agency reports, be placed in the record.

There are seven bills before us. We are not singling out any one particular bill but holding hearings on the broad subject and the numerous issues that are now involved in consideration—in the evaluation of the LEAA and in consideration of what legislative action is appropriate and desired at this time to continue the agency and to strengthen or reinforce its authority to deal with the problems.

Senator Kennedy?

Senator KENNEDY. Thank you very much, Mr. Chairman. I want to thank you for commencing these hearings and for your commitment to a total review of the whole LEAA program. I think it is really long overdue.

Many of us can remember just a few years ago when we had only 2 days of hearings on the last extension of the LEAA program. We did not have the chance to examine in detail either the Administration or the programming of LEAA or even to build into the LEAA structure the kind of evaluation safeguards which are really so essential for the program to help deal with the problems of crime in this country.

There were a number of us who were very much concerned with these superficial deliberations. Some of us, including myself, offered amendments on the floor of the Senate to extend the program for a period of 2 years. We only received a handful of votes.

But there were many of us at that time that believed that the administration of this program was ill conceived, ill advised, and was being poorly administered. There were many of us even at that

time, when the whole LEAA program came up, who took strong issue with the way the program was being handled, in terms of its troika-type administration, which brought all kinds of different administrative bureaucracies and backbiting among the administrators.

As a result, it has been the American people who have suffered. But you and I remember the atmosphere and the climate during that period of time. Anything that had a war on crime label on it was going to get the votes. The American people have paid a fearful price in crime.

They paid a fearful price in the rise of crime in this country and in the fact that billions of dollars have been ineffectively, poorly, and wastefully expended. Hopefully now we in the Congress, and the American people, can put this issue into some perspective. Perhaps it is not so much the fact of the extraordinary continued growth of crime but the economic problems that we are now facing that compels us to say—let's take a look at this particular program.

That is why I am glad that we can have these hearings so that we can review what has been considered until now a sacred cow. You just named something to fight crime and the Congress was prepared to put up the money for it even if it was going to be piddled away.

That I think has been the record of this LEAA program. There have been some good LEAA programs but there have been a remarkable number of programs that have had little or no effect or impact in terms of fighting crime.

We hope that in the consideration and evaluation of LEAA by the full Judiciary Committee and the full Senate, that we are not going to fall into what I think the Senate has fallen into in the past and that is just wave the flag and say we are going to do something about crime and throw billions of dollars of American taxpayers' funds into it.

I say that, Mr. Chairman, not because that is only my own view, but because we have all seen the critical reviews done by the GAO; in a May 1974 Report of the GAO, the Agency concludes that from 1969 through 1973 the LEAA not only failed to monitor properly the money it distributed but failed to evaluate the impact of its programs with the result that, "neither LEAA nor the States can be certain that the grant programs are solving problems that need solving."

The GAO is not alone in its findings. The Office of Management and Budget has apparently reached similar conclusions. In October 1974, although LEAA distributed hundreds of millions of dollars in bloc grants it failed to establish procedures for evaluating the impact of such plans and did not determine which plans were successful and which were not.

In 1974 there was a study commissioned by LEAA itself and the conclusion was that LEAA's funding priorities were misdirected and that State courts had not received the interest, technical assistance, and/or financial support from LEAA that they needed.

LEAA deserves credit for taking this kind of initiative, but the reports add that LEAA's statistics continue to be incomplete and when available seriously misleading. According to one report as of January 1975 LEAA could account for only 39.9 percent of the total 1974 part C block grant funds it distributed to various localities.

This has prevented the effective implementation of these programs. Such criticisms made by independent agencies, and commissions funded by LEAA itself are but a small sample of the criticisms leveled at the agency. It is time for Congress to take a look at the fundamental purpose and goals of LEAA and determine whether reauthorization of the program is warranted.

If so, what improvements are required? Surely it is too late in the day for LEAA representatives to come to the Congress and say that the mistakes by the agency are the result of growing pains. The American public cannot wait. We have not only failed, 8 years after the formation of LEAA, to reduce the crime rate, but to the contrary, it continues to increase at an alarming pace.

The development of proposals for combating crime is an urgent concern of all of us. Although there are no hidden panaceas for eliminating crime from our society, it is clear that certain measures can and must be taken to make our streets safe and our cities secure.

This certainly cannot be asking too much. So I welcome these hearings. I look forward to the careful evaluation of this program and to the comments from a number of my colleagues who I am sure will give us a good deal to think about.

I am delighted to see Senator Beall and Senator Morgan here with us this morning. I would like to have my full statement printed in the record.

Senator McCLELLAN. Let the Senator's full statement be printed in the record. Senator Hruska will be here shortly. His prepared statement will also be inserted at this time.

【The documents referred to follow:】

OPENING REMARKS OF SENATOR EDWARD M. KENNEDY AT LEAA REAUTHORIZATION HEARINGS

These opening hearings of the Senate Subcommittee on Criminal Laws and Procedures dealing with the proposed five-year reauthorization of the Law Enforcement Assistance Administration hopefully signal the beginning of a broad, comprehensive congressional inquiry into the structure, methods and goals of LEAA. Such a comprehensive inquiry was denied the Senate when LEAA was reauthorized in 1973. At that time this Subcommittee held but two days of hearings; just three weeks thereafter the reauthorization bill cleared the full Judiciary Committee and reached the Senate floor for a vote. At that time I and others attempted to offer various amendments to the LEAA reauthorization bill but the need for quick action prevented constructive debate on the merits of these proposals.

Our failure to take a comprehensive look at LEAA in 1973 haunts us now as we meet to reevaluate the role of LEAA and determine whether it has in fact, lived up to its congressional mandate in helping "to prevent crime and ensure the greater safety of the people" by coordinating federal, state and local law enforcement efforts.

In justifying its continued existence, LEAA points with pride to the fact that, since its formation in 1968 as part of the Omnibus Crime and Safe Streets Act, it has provided over four billion dollars to state and local governments for use in over 80,000 different law enforcement related projects. These figures may, at first blush, sound impressive, but they pale before another set of more meaningful statistics which offer a *prima facie* case that LEAA has substantially failed in its task. According to the FBI, serious crime increased by 17 per cent last year, the largest increase in the forty two years that the Bureau has been collecting such statistics. FBI statistics for the first six months of this year show the crime rate continuing to rise by an additional 13 per cent. This soaring rise in crime is reflected every day in the attitudes and habits of the American public; recent studies demonstrate the appalling fact that nearly one-half of the nation's citizens are afraid to walk in their own neighborhoods at night, that in cities with populations exceeding 500,000 one household out of three has been victimized in the last year from a burglary, assault or mugging,

and that the actual rate of crime in this country is even higher than reported, since almost four out of ten criminal incidents are never reported to the police. Mr. Chairman, in light of these grim statistics, the American public may understandably ask—should LEAA congratulate itself on the basis of its past performance; is the commitment of Congress to LEAA as the major vehicle for assisting state and local law enforcement misdirected, and if LEAA is, in fact, to be reauthorized, what fundamental changes must be made in its structure, policies and goals if we are to reverse this disheartening rise in crime.

Congress originally viewed LEAA as the means whereby the Federal Government would help bring about lasting improvements in State and local criminal justice systems by providing the police, courts and corrections with sorely needed funds, technical assistance and research tools. Various studies done in the last few years, however, some actually commissioned by LEAA itself, help us chart the course of LEAA's failures: It has failed to monitor properly the billions of dollars it has distributed; it has failed to evaluate properly the impact of many of its programs in combating crime despite a 1973 amendment to the law requiring that it do so; perhaps most importantly, it has failed to set appropriate and realistic priorities for attacking the crime problem. For example, Mr. Chairman: (1) A May 1974 Report of the General Accounting Office concludes that from 1969 through 1973 LEAA in providing approximately 180 million dollars to improve local court efficiency and procedure, not only failed to monitor the money properly, but failed to evaluate the impact of the programs with the result that "neither LEAA nor the states can be certain that the grant programs are solving problems that need solving." The GAO is not alone in these findings; The Office of Management and Budget has apparently reached similar conclusions; (2) An October, 1974 report of the General Accounting Office concludes that although LEAA has distributed hundreds of millions of dollars in block grants to various state plans, it had failed to establish procedures for evaluating the impact of such plans in order to determine which plans were successful and which were not; (3) Both a February 1975 report of a Special Courts Study Team, commissioned by LEAA itself, and a June 1975 report of the National Center for State Courts conclude that LEAA's funding priorities are seriously misdirected and that state courts "have not received the interest, technical assistance or financial support from L.E.A.A. that are absolutely essential for sound growth and progress"; The reports added that L.E.A.A. project statistics continue to be incomplete and, when available, seriously misleading. Thus, according to one report as of January 1975, the L.E.A.A. could account for only 39.9 per cent of the total 1974 Part C block grant funds it distributed to various localities. 4) Other recent criticisms highlight the internal dissention which characterizes the current L.E.A.A. Administration and has prevented the effective implementation of L.E.A.A. programs.

Mr. Chairman, such criticisms made by independent agencies, a commission funded by L.E.A.A. itself, and others are but a small sample of carefully drawn criticisms recently levelled at the Agency. These criticisms made abundantly clear that the time has come for the Congress to take a long, hard critical look at the fundamental purposes and goals of L.E.A.A., to determine whether the reauthorization of the program is warranted, and, if so, what improvements are required. Surely it is too late in the day for L.E.A.A. representatives to come before this Congress and say that mistakes made by the Agency are merely the result of growing pains and ironing out organizational kinks. The American public cannot wait; eight years after the formation of L.E.A.A. we have not only failed to reduce the crime rate but, to the contrary, it continues to increase at an alarming pace.

We live during a time when the development of just, workable proposals for combating crime is an urgent concern of all of us. It is an intolerable situation in this nation when our own citizens cannot walk the streets without facing the dangers of robbery, mugging and other street crimes. Although there are no hidden panaceas for eliminating crime from our society, it is clear that certain measures can and must be taken to make our streets safe and our citizens secure. This certainly cannot be asking too much.

For example, we must provide funds for additional research into all facets of the Criminal Justice System. Progress is grounded in knowledge, and until we know more about criminal behavior and crime prevention our legislative programs for combating crime will continue to be founded on faulty assumptions and misguided premises.

We must provide the necessary funds and leadership for improving court efficiency and streamlining the administration of justice; recent studies are unanimous in their call for swift and sure punishment of the offender. Until

we focus our attention on expediting the criminal process and assuring swift certain punishment, our gains in combating crime will be minimal.

Finally, Mr. Chairman, in dealing with the subject of punishment we must try to eliminate the element of unfairness in our sentencing and parole processes. For too long, unexposed, unbridled and unreviewable discretion has been the hallmark of federal sentencing and parole decision-making. Meaningful legislative standards for sentencing judges must be established if punishment is to be viewed by both the offender and society as consistent and fair.

I will study with keen interest the testimony of the witnesses who appear during the course of these hearings, as we strive to determine what positive action the Congress must take in combating the elusive problem of crime.

STATEMENT OF SENATOR ROMAN L. HRUSKA

Mr. Chairman, today we begin consideration of the future of the Law Enforcement Assistance Administration. Its current authorization will expire in one year. We have before the Committee, legislation to extend the LEAA programs through 1981. There are also before us several bills to change the thrust and direction of LEAA and its programs. These proposals will be carefully considered by the subcommittee. We look forward to the testimony and evidence in their support.

These are very significant hearings because LEAA represents an important weapon in this country's fight against crime. It plays a vital role in the proper functioning of our criminal justice system.

President Ford properly defined the role of LEAA in his message on crime presented to the Congress on June 19 of this year. He said:

"The LEAA annually provides millions of dollars of support to State and local governments in improving the overall operation of their criminal justice systems. Additionally, the LEAA serves as a center for the development of new ideas on how to fight crime."

Because the Budget and Impoundment Control Act of 1974 provides a new timetable for the reauthorization of LEAA, it is essential that this subcommittee proceed in a timely fashion to provide the Judiciary Committee with legislation in advance of the deadline imposed by the new Act. It is my sincere hope that this will be accomplished.

It is important to note the Administration has recommended that the LEAA authorization be extended for five years. Since LEAA programs are based on the comprehensive planning concept, it seems to me a necessity that the five-year extension be approved. The states, which must establish goals and priorities to participate in LEAA programs, will be the beneficiaries of a five-year extension for LEAA. They will have much more flexibility in their planning for long and short range programs with the assurance that LEAA funds will be available for five years.

CONCEPT OF LEAA

LEAA was established by the Congress in 1968 with the strong assurances that the federal government was not assuming from states and localities the responsibility for law enforcement.

Under the Constitution, police powers are clearly the responsibility of the states. The Omnibus Crime Control and Safe Streets Act of 1968 recognized this fact without reservation or qualification. In passing that legislation the Congress declared:

"Congress finds . . . that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively."

With the approval of this legislation, the first major funding role for the Federal government in the area of law enforcement and criminal justice was created. It was in response to public and private commissions and congressional testimony that new funds, new ideas, and new thinking were provided in this vital area of national concern. It also established a new mechanism to provide Federal assistance to State and local governments—the block grant.

The block grant approach was significant. In comparison to categorical grant programs where control is retained at the Federal level, the block grant centers power for decisionmaking and the setting of spending priorities at the State and local level.

Because of the requirement for a comprehensive plan to be developed by the State criminal justice planning agency, a mechanism for involving state and local agencies and private groups into the funding and decisionmaking process was created.

NOT A RESPONSE TO CRIME PROBLEM IN AMERICA

The bill authorizing the extension of the LEAA program should not be viewed as the federal government's direct response to the rising crime problem in America. Certainly, LEAA programs can help the state and local law enforcement authorities in many ways, but the key to cutting our crime rate still rests in bulk with the effectiveness of these officials. LEAA funds still amount to only 5 percent of the total outlay of federal, state and local money for law enforcement activities. LEAA can contribute to finding solutions to our crime problems, but its programs are not ends in themselves. Too many persons make the mistake of attributing to LEAA power it does not have and responsibility it cannot assume. It should be well and firmly noted that LEAA has no direct role or control of state and local law enforcement activities; nor any dominance or undue influence. Any effort in such direction could well be construed as favoring the concept of a national police force—and therefore reprehensible.

ASSESSMENT OF LEAA ACTIVITIES

During its seven years of existence, LEAA has provided funds and technical assistance to approximately 40,000 law enforcement and criminal justice agencies. More than 80,000 grants have been made by LEAA.

LEAA funds may be used in a variety of ways. For example, police forces, courts, and correctional activities as well as a number of activities which may only impact on potential crime in a State, all benefit from LEAA programs. Crime prevention and law enforcement activities, as well as programs designed to bring the individual citizen into closer contact with the police agency, the prosecutor's office and the courthouse are supported by LEAA.

Increased funding to Indian tribes for law enforcement purposes, Citizens' Initiatives Programs, and Correctional Improvement Programs have been successfully undertaken by LEAA. The training and education of our law enforcement and criminal justice personnel, funded through the Law Enforcement Education Program, has always received exceptional marks. This program is well justified and productive. Thousands have taken advantage of these educational benefits and, in so doing, are making a lasting contribution to the criminal justice system.

One other activity of LEAA that deserves special attention is the recently completed work of the National Advisory Commission on Criminal Justice Standards and Goals. Funded by LEAA, the Advisory Commission counted among its membership leading criminal-justice planners, police, correctional personnel and judicial officers throughout the nation. It has issued State and local standards in the criminal justice area that are voluntary in nature and are under active consideration by nearly every state in the country. They are providing needed direction for major reforms in State and local criminal justice systems. This effort also typifies the incorporation of national program concerns with the congressional block grant concept which has led to the implementation of reforms at the local level.

CRITICISM OF LEAA

As with other federal agencies who grant millions of dollars each year, LEAA has not been without controversy or criticism. Any program of this magnitude is bound to have weaknesses as well as strong points. The LEAA concept deals with the basic rights of every American citizens—the rights of a citizen to be free from fear as well as harm from the criminal element; and the rights of individuals to be fairly treated by the criminal justice system. The balancing of these rights is bound to produce controversies. But these too must be weighed in the light of all the facts and circumstances. We hope to explore these during the hearings that are before us.

CONCLUSION

It is my hope that this subcommittee will thoroughly examine the history, the performance, and record of LEAA. I am confident that the result will be a favorable one. It is good that the distinguished Attorney General, Mr. Levi, is with us today to give his views on this legislation.

As we progress in these hearings, this subcommittee will address questions relating to future issues as well as past administration of the LEAA program. Only in this manner can we be assured that the future of the Federal government's role in the improvement of the criminal justice system and the reduction of crime be fully explored and advanced to their declared goals.

94TH CONGRESS
1ST SESSION

S. 460

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 1975

Mr. JAVITS introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide assistance to State and local criminal justice departments and agencies in alleviating critical shortages in qualified professional and paraprofessional personnel, particularly in the corrections components of such systems, in developing the most advanced and enlightened personnel recruitment training and employment standards and programs, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 *That this Act may be cited as the "Criminal Justice Profes-*
- 4 *sions Development Act of 1975".*

1 THE CRIMINAL JUSTICE PROFESSIONS DEVELOPMENT ACT
2 OF 1975—FINDINGS AND DECLARATIONS OF POLICY

3 SEC. 2. The Congress hereby finds and declares that
4 (1) there is an urgent need to alleviate the critical shortage
5 in qualified manpower for criminal justice systems at all
6 levels of government, and most critically, in the corrections
7 component of such systems; (2) personnel recruitment,
8 training, and employment standards and programs within
9 such systems must reflect the most advanced and enlightened
10 practices and objectives; (3) immediate steps are required
11 to devise new institutional means to accomplish this goal;
12 (4) the need for trained criminal justice personnel is apt to
13 increase as the population expands, and crime rates remain
14 at unacceptable levels; and (5) regional crime and delin-
15 quency centers, providing broad based services to the entire
16 criminal justice system, can reduce such shortages and pro-
17 mote the solution of critical problems that confront the vari-
18 ous components of criminal justice.

19 SEC. 3. (a) Title I of the Omnibus Crime Control and
20 Safe Streets Act of 1968 (hereinafter referred to as the
21 "Act") is amended by inserting immediately after part I
22 the following:

23 "PART J—CRIMINAL JUSTICE PROFESSIONS
24 DEVELOPMENT

25 "SEC. 671. The Administration is authorized to make

1 grants to State and local governmental agencies and to in-
2 stitutions of higher education and private nonprofit orga-
3 nizations for the purpose of paying not more than 85 per
4 centum of the cost of establishing, staffing, and operating
5 regional crime and delinquency centers in various areas of
6 the country. As used in this section, the term 'crime and
7 delinquency center' means a public or private nonprofit
8 agency, institution, or organization which serves as—

9 “(A) a training institution for students and practi-
10 tioners of criminal justice;

11 “(B) a centralized channel for the recruitment of
12 criminal justice personnel in conjunction with Federal,
13 State, and local criminal justice agencies;

14 “(C) a consultation center for criminal justice
15 agencies and relevant professional schools; and

16 “(D) a research center for basic and applied studies
17 of criminal justice.

18 No payment shall be made to any State, local governmental
19 agency, institution of higher learning, or private, nonprofit
20 organization pursuant to this section, unless and until (1)
21 the eligible grantee submits an appropriate proposal pro-
22 viding for the purposes, objectives, administration, staffing,
23 organization, and curriculums of the proposed crime and de-
24 linquency center, consistent with criteria established by the
25 Administration; *Provided*, That the professional staff of such

1 centers shall be composed of persons drawn both from prac-
2 ticing agencies of criminal justice, and from persons who
3 have broad experience primarily in the fields of law, psy-
4 chiatry, clinical psychology, social work, and public admin-
5 istration, and (2) the Administration finds that the eligible
6 grantee will have available for expenditure an amount equal
7 to not less than the non-Federal share of the costs with re-
8 spect to which payment is sought. No part of any grant
9 made pursuant to this section may be used for the acquisition
10 of land or for capital construction.

11 "ACADEMIC ASSISTANCE FOR CORRECTIONS SYSTEMS

12 PROFESSIONAL PERSONNEL

13 "SEC. 672. (a) The Administration is authorized to
14 make grants to or enter into contracts with institutions of
15 higher education, or combinations of such institutions, or
16 other appropriate public and private nonprofit organizations,
17 including regional crime and delinquency centers to assist
18 them in planning, developing, strengthening, or carrying out
19 programs designed to provide training or academic educa-
20 tional assistance to persons for study in academic subjects
21 related to correctional administration and rehabilitative
22 services.

23 "(b) There is authorized to be appropriated to carry
24 out the provisions of this section \$5,000,000 for the fiscal
25 year ending June 30, 1975; \$10,000,000 for the fiscal year

1 ending June 30, 1976; and \$15,000,000 for the fiscal year
2 ending June 30, 1977.

3 "SEC. 673. (a) The President shall, within ninety days
4 after the enactment of this title, appoint a National Advisory
5 Council on Criminal Justice Professions Development (here-
6 inafter in this section referred to as the 'Council') for the
7 purpose of reviewing the operation of this part, and of other
8 Federal programs for the training and development of crim-
9 inal justice professional personnel, evaluating their effective-
10 ness in meeting the purposes of the part and in achieving
11 improved quality in such training programs, and personnel
12 recruitment, training, and performance standards generally.
13 The Council shall, in addition, advise the Attorney General,
14 with respect to policy matters arising in the administration
15 of this part and any other matters, relating to the purposes
16 of the part, on which its advice may be requested.

17 "(b) The Council shall be appointed by the President,
18 without regard to the civil service and classification laws,
19 and shall consist of fifteen persons. The members, one of
20 whom shall be designated by the President as Chairman,
21 shall include persons broadly representative of any expe-
22 rience in the fields of law enforcement, courts, probation and
23 parole, correctional administration, education, law, the social
24 sciences, and the behavioral sciences.

25 "(c) The Council shall make an annual report of its

1 findings and recommendations (including recommendations
2 for changes in this title and other Federal laws relating to
3 criminal justice personnel training) to the President and
4 the Congress not later than January 31 of each calendar
5 year beginning after the enactment of the section. The Presi-
6 dent is requested to transmit to the Congress such comments
7 and recommendations as he may have with respect to such
8 report.

9 “(d) Members of the Council who are not in the regu-
10 lar full-time employ of the United States shall, while serving
11 on the business of the Council, be entitled to receive com-
12 pensation at rates fixed by the President, but not exceeding
13 the rate per day specified at the time of such service for
14 GS-18 under section 5332 of title 5, United States Code,
15 including traveltime, and while so serving away from their
16 homes or regular places of business, may be allowed travel
17 expenses, including per diem in lieu of subsistence, as au-
18 thorized by section 5703 of title 5, United States Code.

19 “(e) There is authorized to be appropriated to carry
20 out the purposes of this section the sum of \$150,000 for
21 the fiscal year ending June 30, 1975, and the sum of
22 \$250,000 for each of the two succeeding fiscal years.

23 “APPRAISING CRIMINAL JUSTICE PERSONNEL NEEDS

24 “SEC. 674. (a) The Attorney General shall, from time
25 to time, appraise existing and future personnel needs of the

1 an especially significant contribution to attaining the objec-
 2 tives of this section, for the purpose of—

3 “(1) identifying capable persons in secondary
 4 schools and institutions of higher learning who may be
 5 interested in careers in criminal justice particularly in
 6 correctional administration and rehabilitation, and en-
 7 couraging them to pursue postsecondary education in
 8 preparation for such careers;

9 “(2) publicizing available opportunities for careers
 10 in the field of criminal justice; and

11 “(3) encouraging qualified persons to enter the
 12 field of criminal justice.

13 The Administration is authorized to enter into contracts
 14 with private agencies, institutions, or organizations to carry
 15 out the purposes of this section.

16 “(b) There is authorized to be appropriated to carry
 17 out the purposes of this section the sum of \$2,500,000 for
 18 the fiscal year ending June 30, 1975, and the sum of \$5,000,-
 19 000 for each of the two succeeding fiscal years.

20 “RECRUITMENT, EMPLOYMENT, AND COMPENSATION OF
 21 CORRECTIONS SYSTEMS PROFESSIONAL AND PARAPRO-
 22 FESSIONAL PERSONNEL

23 “SEC. 676. (a) The Administration is authorized to
 24 make grants to State and local corrections departments and
 25 agencies, including probation and parole agencies, to assist

1 them in the recruitment, employment, and compensation of
2 professional and paraprofessional administrative, custodial,
3 rehabilitative, medical, and other personnel, consistent with
4 criteria established by the Administration.

5 “(b) Not more than one-third of any grant made under
6 this section may be expended for the compensation of cus-
7 todial personnel.

8 “(c) No grant shall be made to any prospective grantee,
9 unless and until such applicant—

10 “(1) provides satisfactory assurances that Federal
11 funds made available pursuant to this section will be used
12 so as not to supplant State or local funds, but to supple-
13 ment and to the extent practicable to increase the
14 amounts of such funds that would in the absence of such
15 Federal funds be made available for the purposes of this
16 section;

17 “(2) provides satisfactory assurances that the per-
18 sonnel standards and programs of the applicant reflect
19 the most advanced and enlightened practices and ob-
20 jectives; and

21 “(3) provides satisfactory assurances that such ap-
22 plicant is engaging in projects and programs to improve
23 the recruiting, organization, training, and education of
24 personnel employed in correctional activities, including
25 probation, parole, and rehabilitation.

1 “(d) There is authorized to be appropriated to carry out
2 the purpose of this section \$15,000,000 for the fiscal year
3 ending June 30, 1975, and \$20,000,000 in each of the two
4 succeeding fiscal years.”

94TH CONGRESS
1ST SESSION

S. 1297

IN THE SENATE OF THE UNITED STATES

MARCH 21 (legislative day, MARCH 12), 1975

Mr. MORGAN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for an improved method of selection of the State planning agency, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the second sentence of section 203 (a) of the Omnibus
4 Crime Control and Safe Streets Act of 1968 is amended
5 to read as follows: "Such agency shall be established by
6 the State legislature or designated by a constitutional officer
7 selected by the State legislature and shall be subject to the
8 jurisdiction of a constitutional officer selected by the State
9 legislature."

1 SEC. 2. The amendment made by this Act shall become
2 effective on the first day of the third month following the
3 last month during which the State legislature meets in regu-
4 lar or special session on or after the date of enactment of this
5 Act or one year after the date of enactment of this Act,
6 whichever occurs first.

94TH CONGRESS
1ST SESSION

S. 1598

IN THE SENATE OF THE UNITED STATES

APRIL 29 (legislative day, APRIL 21), 1975

Mr. MORGAN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for an improved method of selection of the State planning agency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the second sentence of section 203 (a) of the Omnibus
4 Crime Control and Safe Streets Act of 1968 is amended
5 to read as follows: "Such agency shall be created or des-
6 ignated by the chief executive of the State and shall be
7 subject to his jurisdiction, except that the legislature of
8 any State may, after the agency is created or designated
9 pursuant to this subsection, transfer the direction and con-
10 trol of such agency to the attorney general of the State

- 1 or any constitutional officer of the State selected by the
- 2 State legislature.”.

DEPARTMENT OF JUSTICE,
Washington, D.C., June 26, 1975.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on S. 1297 and S. 1598, bills to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for an improved method of selection of the State planning agency, and for other purposes.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is the authorizing legislation for the Law Enforcement Assistance Administration. Under the terms of LEAA's present authority, the majority of its funds are allocated in block grants to the various states on the basis of relative population. Each state has established a state planning agency to determine the jurisdiction's criminal justice and law enforcement needs and priorities, and to administer the local program. As the law presently reads, the state planning agency is to be created or designated by the chief executive of the state and is to be subject to his jurisdiction. S. 1297 would have the state planning agency established by the state legislature or designated by a constitutional officer selected by the state legislature and would be subject to the jurisdiction of a constitutional officer selected by the state legislature. S. 1598 would permit the state legislature to place the state planning agency under the control of the attorney general or other constitutional officer of the state.

Section 203 (a), that provision of the Omnibus Crime Control and Safe Streets Act which S. 1297 and S. 1598 would amend, has remained unchanged since LEAA's enabling legislation was enacted in 1968, despite subsequent amendments of the Act, including major revisions in 1971 (Public Law 91-644) and 1973 (Public Law 93-83). The provision was originally placed in the legislation as part of an amendment offered by Congressman Cahill of New Jersey, which passed the House by a vote of 188 to 86 on August 8, 1967. While the debate did not center on the question of the appropriate placement in state government of the state planning agency, the issue did receive some attention. Arguments that the provision would give too much power to the Governor were rejected.

The Department of Justice strongly feels that any attempt to place state planning agencies under the jurisdiction of legislatures rather than chief executives would be inappropriate. The remark quoted above highlights one of the key elements of the LEAA program—the need for centralized and coordinated statewide planning to improve law enforcement and criminal justice. One central authority in the executive branch is given responsibility for this coordination. S. 1297 and S. 1598 would be destructive of this planning effort by placing the authority in a legislative body.

Administration of a program to improve law enforcement and criminal justice is properly an executive function. According to the constitutional scheme under which state governments operate, powers of the branches of government are distinct. Overall responsibility for execution of the laws and supervision of law enforcement services resides with the chief executive. It is important that the governor retain this authority and the appropriate separation of powers be maintained.

It should also be noted that legislative bodies do not generally function in a manner which would be conducive to administration or supervision of a program such as that of LEAA. Many legislatures meet only for limited periods of time or on infrequent occasions. Some legislatures do not even meet on an annual basis. The need for devotion of attention to other legislative matters would not seem to permit a thorough review of statewide law enforcement and criminal justice needs and comprehensive development of priorities. Even if the legislature were to designate a specific constitutional officer to have responsibility for administration of the program in the state, the necessary close supervision could not be provided.

Another possible adverse effect from enactment of S. 1297 and S. 1598 could be the politicization of the LEAA program. The Governor, as the state's highest elected official, is responsible to all of the citizens of the state and is best able to promote statewide interests. LEAA-funded projects can be conducted in conjunction with other law enforcement and criminal justice activities under his control. State legislators, on the other hand, are supported by more limited constituencies, and naturally give more emphasis to purely local concerns. A situation could arise where a legislatively controlled LEAA program would be operated at criss purposes to other activities controlled by the chief executive. A similar situation would arise if the attorney general of the state held views different from the Governor. Given the limited impact of LEAA resources, the entire program could be greatly reduced in effectiveness.

The Department believes that the various state legislatures already have the means for effective oversight of the LEAA program through the appropriations process. Federal funds amount to a maximum of ninety percent of the cost of particular projects. The remaining funds must be supplied by state and local units of government. The state must help local governments by providing at least five percent of the matching funds required for local programs. The state must provide all of the matching funds for state-operated projects. By carefully reviewing the appropriation requests from the Governor for such activities, the legislature can participate in supervision of the LEAA program in a crucial manner.

It should finally be pointed out that the LEAA authorization is scheduled to expire in 1976. Under the terms of the Congressional Budget and Impoundment Control Act of 1974, the Administration's proposal for renewing the authorization is to be delivered to the Congress in 1975. Since the LEAA program will be undergoing comprehensive review in the course of the next year, it would be preferable that any proposals for changing the administrative structure of the program be examined in the course of this process, rather than as a separate consideration.

For the reasons indicated the Department of Justice recommends against enactment of S. 1297 and S. 1598.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

A. MITCHELL McCONNELL, Jr.,
Acting Assistant Attorney General.

94TH CONGRESS
1ST SESSION

S. 1601

IN THE SENATE OF THE UNITED STATES

APRIL 29 (legislative day, APRIL 21), 1975

Mr. EAGLETON introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To authorize assistance for demonstration projects designed to develop reforms in the criminal justice system in the United States.

1. *Be it enacted by the Senate and House of Representa-*
 2. *tives of the United States of America in Congress assembled,*
 3 That this Act may be cited as the "Criminal Justice Reform
 4 Act".

5. DECLARATION OF POLICY

6 SEC. 2. The Congress finds that—

7 (1) in order to obtain effective control and pre-
 8 vention of crime, there is a need for demonstration proj-
 9 ects to test within States and localities comprehensive

1 criminal justice reforms, including reforms in recruiting,
2 training, compensating, and supervising police and other
3 law enforcement personnel, expediting and improving
4 criminal court procedure, and strengthening correctional
5 systems; and

6 ... (2) the recommendations of the President's Com-
7 mission on Law Enforcement and the Administration
8 of Justice, together with the planning and recommenda-
9 tions of a number of State planning agencies and com-
10 missions and other agencies, provide an excellent basis
11 for the adoption of such reforms.

12 DEMONSTRATION PROJECTS AUTHORIZED

13 SEC. 3. (a) The Administrator of the Law Enforce-
14 ment Assistance Administration is authorized to make grants
15 to and to enter into contracts with States and, where appro-
16 priate, with localities for the conduct of demonstration proj-
17 ects designed to test the effectiveness of comprehensive crim-
18 inal justice reforms as described in subsection (b) of this
19 section.

20 (b) A demonstration project assisted under this section
21 may involve the testing of the following comprehensive
22 criminal justice reforms:

23 (1) A State or, where appropriate, a locality will
24 establish with respect to police and other similar law
25 enforcement personnel—

1 (A) standards for recruitment which are uni-
2 form throughout the State;

3 (B) appropriate educational requirements for
4 advancement which are uniform throughout the
5 State;

6 (C) beginning compensation and increases in
7 compensation which are appropriate for a profes-
8 sional, considering the size of the community and
9 the cost of living in the community in which such
10 personnel serve;

11 (D) a retirement system that is uniform
12 throughout the State, and a statewide pension plan
13 for such personnel;

14 (E) to the extent possible, uniform promo-
15 tional policies for such personnel throughout the
16 State;

17 (F) to the extent appropriate, standard opera-
18 tional procedures for such personnel throughout the
19 State;

20 (G) lateral entry between law enforcement
21 agencies of each locality within the State and
22 between Federal, State, and local law enforcement
23 agencies located within the State, with appropriate
24 conditions on the period of initial service for such
25 personnel; or

1 (H) facilities offering short-term mandatory
2 training for all such personnel within the State.

3 (2) A State or a locality having jurisdiction over
4 the trial of criminal offenses will implement such neces-
5 sary reforms as will insure that (A) the trial of all such
6 offenses (excluding juvenile offenses) will be commenced
7 no later than sixty days from the date on which the
8 defendant was arrested or from the date on which the
9 defendant was charged by the authorities with such
10 offense, whichever occurs first, and (B) the charges will
11 be dismissed with prejudice for failure to comply with
12 the requirements of this paragraph, except that the
13 Administrator shall, by regulation, provide for the
14 exclusion from such sixty-day period of any periods of
15 delay that he designates as may reasonably be necessi-
16 tated in the interest of justice; and reforms under this
17 paragraph may include, without limitation—

18 (i) increasing the number of judges trying
19 criminal offenses;

20 (ii) improving the efficiency of criminal court
21 procedures;

22 (iii) appointing professional court administra-
23 tors; and

24 (iv) increasing personnel engaged in prosecut-
25 ing and defending criminal cases.

1 (3) A State or, where appropriate, a locality within
2 such State—

3 (A) will establish a system for classifying per-
4 sons charged with, or convicted of, criminal offenses
5 so as to permit individualized treatment and secu-
6 rity standards appropriate to the individual;

7 (B) will establish a range of correctional facili-
8 ties that are adequately equipped and staffed to treat
9 the particular classifications of inmates assigned
10 there, including small-unit, community-based cor-
11 rectional institutions;

12 (C) will provide comprehensive vocational and
13 educational programs designed for the special needs
14 of rehabilitating each class of persons charged with
15 or convicted of criminal offenses;

16 (D) will provide separate detention facilities
17 for juveniles, including shelter facilities outside the
18 correctional system for abandoned, neglected, or
19 runaway children;

20 (E) will establish standards applicable through-
21 out the State for local jails and misdemeanor insti-
22 tutions to be enforced by the appropriate State cor-
23 rections agency;

24 (F) will provide parole and probation services
25 for felons, for juveniles, for adult misdemeanants who

1 need or can profit from community treatment, and
2 supervisory services for offenders who are released
3 from correctional institutions without parole;

4 (G) will establish caseload standards for parole
5 and probation officers that vary in size and in type
6 and intensity of treatment according to the needs
7 and problems of the offender;

8 (H) will establish statewide job qualifications
9 and compensation schedules for correctional officers,
10 including probation and parole officers, along with
11 a mandatory system of in-service training;

12 (I) will develop and operate programs of treat-
13 ment and rehabilitation for persons suffering from
14 alcoholism and drug abuse, available both to inmates
15 and as an alternative to incarceration.

16 (4) A State will study by an appropriate and re-
17 sponsible group the consolidation of law enforcement
18 agencies within such State best suited to the particular
19 needs of that State; and will report to the Administrator
20 on its findings not later than two years following the
21 approval of its application;

22 (5) A State or a locality will study by an appro-
23 priate and responsible group the application of the crimi-
24 nal laws, as well as the propriety of the application of
25 such laws to—

26

- 1 (B) narcotics addiction and drug abuse;
2 (C) gambling;
3 (D) vagrancy and disorderly conduct; and
4 (E) such other related areas which the State
5 deems appropriate,

6 and will report to the Administrator on its findings
7 with respect to such matters not later than two years
8 after the approval of its application.

9 (c) No grant may be made and no contract may be
10 entered into under this section unless an application is made
11 to the Administrator at such time, in such manner, and
12 containing or accompanied by such information as he may
13 reasonably require.

14 LIMITATION

15 SEC. 4. No grant may be made and no contract may be
16 entered into under section 3—

17 (1) for any statewide comprehensive criminal jus-
18 tice reform with more than four States; or

19 (2) with more than ten localities located in any one
20 State, or with more than five hundred localities in all
21 States, not covered by paragraph (1) of this section.

22 ADDITIONAL PROVISIONS OF AGREEMENTS

23 SEC. 5. Any agreement evidencing a grant or contract
24 under this Act shall contain provisions adequate to assure
25 that—

1 (1) Federal funds made available under this Act
2 will not be used to supplant State or local funds for the
3 purpose for which the agreement is made;

4 (2) whenever there is a failure to comply with the
5 provisions of that agreement, the Administrator may
6 withhold further payments, until there is no longer such
7 a failure;

8 (3) in the case of the construction of any facility—

9 (A) the design and cost of construction will
10 be reasonable; and

11 (B) all laborers and mechanics employed by
12 contractors or subcontractors will be paid wages at
13 rates not less than those prevailing on similar con-
14 struction in the locality, as determined by the Sec-
15 retary of Labor in accordance with the Davis-Bacon
16 Act, as amended (40 U.S.C. 276a—276a-5); and

17 (C) in any case in which—

18 (i) the ownership of the facility ceases to
19 be a public agency, or

20 (ii) the facility ceases to be used for the
21 purposes for which it was constructed unless
22 there is good cause for releasing the applicant
23 from the requirement of this clause, as de-
24 termined by the Administrator,

25 the interests of the United States will be protected.

DEFINITIONS

1
2 SEC. 8. As used in this Act--

3 (1) "Administration" means the Law Enforce-
4 ment Assistance Administration;

5 (2) "Administrator" means the Administrator of
6 the Law Enforcement Assistance Administration;

7 (3) "criminal offense" includes juvenile offenses,
8 except as otherwise specified;

9 (4) "locality" means any city or other municipality
10 (or two or more municipalities acting jointly) or any
11 county or other political subdivision or State (or two or
12 more acting jointly) having general governmental
13 powers; and

14 (5) "State" means each of the several States of the
15 Union, and the District of Columbia.

APPROPRIATIONS AUTHORIZED

16
17 SEC. 9. There are hereby authorized to be appropriated
18 such sums as may be necessary to carry out the purposes of
19 the Act.

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

AUG 13 1975

The Honorable James O. Eastland
Chairman
Committee on the Judiciary
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Justice on S. 1601, a bill to authorize assistance for demonstration projects designed to develop reforms in the criminal justice system in the United States.

The bill would authorize the Administrator of the Law Enforcement Assistance Administration to make grants and provide technical assistance to a specified number of states and localities for demonstration projects designed to test the effectiveness of comprehensive criminal justice reforms. In the area of police and law enforcement personnel, there are eight enumerated areas of reform. Four proposals for reform of the court system are listed. In addition, the court reforms must insure that trial of criminal offenses (excluding juvenile offenses) be commenced not later than 60 days from the date on which the defendant was arrested or charged. For failure to comply, the charges would be dismissed with prejudice, unless the case were to fall within certain exceptions designated in regulations by the Administrator.

Nine reforms are enumerated in the category of corrections. Consideration would also be required to be given to reforms in several other areas. Participating states would study the consolidation of law enforcement agencies throughout the jurisdiction. In addition, the states would study the application of criminal laws to offenses such as alcoholism and drunkenness, narcotics addiction and drug abuse, gambling, and vagrancy and disorderly conduct. The results of these studies would be reported to the Administrator.

The federal government would pay seventy-five percent of the cost of the programs and projects assisted under the bill in any fiscal year. A maximum of four statewide programs could be funded. An additional five hundred localities could participate, with no more than ten being located in any one state. The legislation specifies no time period for which the program would remain authorized. Such sums as necessary would be authorized to be appropriated.

While certain of the goals set out in the proposed legislation are praiseworthy, a review of the bill has identified a number of objectionable features. From the standpoint of the programs of the Law Enforcement Assistance Administration, the proposed legislation would significantly depart from the block grant approach to funding. As you know, Congress stated in the preamble to the LEAA legislation that "crime is essentially a local problem that must be dealt with by state and local governments if it is to be controlled effectively." Pursuant to this philosophy, the Act established a matching grant-in-aid program under which LEAA makes annual block planning and action grants to the states.

Under the block grant program, the states order their own priorities through a comprehensive planning process. LEAA does not dictate to state and local governments how to run their criminal justice systems so long as the state plan is consistent with the law. The proposed legislation, on the other hand, is more in the nature of a categorical grant program, the suggested state reforms being set forth rather explicitly. Such legislation would appear to contradict the previously expressed will of Congress, as reflected in the legislative history of the Omnibus Crime Control and Safe Streets Act of 1968 and its amending legislation, that categorical grant programs, whereby the federal government sets the purpose and terms for the use of criminal justice grant funds by the states and units of local government, be avoided if possible.

S. 1601 assumes a need for comprehensive planning when, in fact, comprehensive planning is a key feature of the present LEAA program. The proposal is essentially duplicative of authority which LEAA presently possesses. Moreover, Section 303(b) of the Crime Control Act of 1973 mandates reform by requiring that "(n)o approval shall be given to any state plan unless and until the Administration finds that such plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State." LEAA uses the discretionary fund provided for in Part C of the Crime Control Act to assist programs of national scope and to provide special impetus for innovative and experimental projects which are compatible with particular state plans. Moreover, general revenue sharing is another existing vehicle for funding of criminal justice reform. A significant portion of revenue sharing funds is presently being used for law enforcement-related purposes.

The reports of the National Advisory Commission on Criminal Justice Standards and Goals, which received LEAA funding support, provide guidance to the states in the type of reforms which might be feasible. These reports were the product of intensive study and deliberation by outstanding members of state and local law enforcement and criminal justice agencies. LEAA has consistently taken the position that it will not impose the Commission's standards on state and local governments. Instead, LEAA assists and encourages them to go through the process of analyzing their criminal justice systems and to adopt such standards as each finds appropriate. As of this date, 47 states have taken steps towards adoption and implementation of their own standards and goals. Each state may adopt the reforms appropriate for that particular jurisdiction, receiving LEAA funding support in the effort.

A number of projects which embody one or more of the reforms enumerated by S. 1601 have received substantial amounts of LEAA block grant or discretionary funds. Examples include the funding of programs relating to parole and probation and programs relating to offender vocational and educational programs. LEAA's High Impact Anticrime Program, regarded as a significant and innovative crime reduction effort in eight major cities, required a commitment of \$160 million over three years. That program, however, is modest in comparison with the proposal to reform statewide criminal justice systems contemplated by the legislation. The fiscal requirements of the latter would substantially exceed the cost of the Impact program.

To properly implement the proposal, a substantial increase in personnel and other resources to administer the program and to evaluate the demonstration programs would be required. The bill's suggestions for reform would certainly demand the expenditure of a significant amount of federal funds at a time when there is a need to reduce spending by the federal government. Furthermore, at the successful completion of the demonstration projects, other states would almost certainly demand that additional funds be made available so that they, too, could completely reform their criminal justice systems at federal expense.

A further objection to the bill is that it suggests excessive federal involvement in state activities through the great amount of discretion given to the Administrator of LEAA. He is placed in a position of determining the acceptability of state and local applications, choosing the demonstration jurisdictions, and

monitoring compliance. Section 5(2) of the bill provides that payments may be withheld by the Administrator for noncompliance. Although some guidelines are suggested by the bill and regulations may further clarify its requirements, it is believed the narrowing of such discretion by the Congress would be essential to avoid the obvious political implications of actions LEIA would undertake.

Section 3(b)(2) authorizes the Administrator to regulate the state trial process so as to assure speedy trial in a way which exceeds the regulation deemed appropriate by the United States Supreme Court. Although the Supreme Court made the 6th Amendment right to a speedy trial applicable to the states through the 14th Amendment in *Kloper v. North Carolina*, 386 U.S. 213 (1967), and again addressed itself to the issue in *Dickey v. Florida*, 398 U.S. 30 (1970), its standard comes nowhere near approaching the 60-day limitation contained in S. 1601. It should also be noted that the American Bar Association Minimum Standards for Speedy Trial make no recommendation with regard to the time between indictment and trial, although they do recommend dismissal of a case for noncompliance with speedy trial statutes. While the National Advisory Commission on Criminal Justice Standards and Goals also recommends a 60-day period from arrest to beginning of trial in felony cases (*Courts*, Standard 41.), the Commission emphasized that the period relates only to the norm or average and does not impose an outside limit. Thus, the Commission does not call for automatic dismissal. Automatic dismissal punishes both the innocent defendant who is entitled to vindication and, in the case of the guilty, the public. Finally in this regard, it should be pointed out that the Speedy Trial Act of 1974 (Public Law 93-619; 28 Stat. 2076) provides for dismissal of the charges against a federal defendant not brought to trial within 100 days of arrest. The judge in each case has the discretion to decide whether the charges should be dismissed with or without prejudice.

Section 3(b)(4) of S. 1601 contains a provision for the study of consolidation of law enforcement agencies within a state. Section 3(b)(5) calls for a study of decriminalization of drunkenness, narcotics offenses, gambling, vagrancy, disorderly conduct, and related offenses. Reform in these areas to date has been more difficult to achieve than have most of the current reform proposals that are being conducted in the criminal justice field. The provision of the bill calling for a report to the Administrator on the findings of these studies adds nothing to the solution of that problem. It should also be noted that through the Standards and Goals process previously referred to, many states are already taking action in these areas.

Section 5(3)(C) of the bill, calling for protection of the interests of the United States if a facility is transferred to a new owner or used for a different purpose, is subject to question. While the Administrator may determine that there is good cause for releasing this obligation, this very power of review may be seen as an unwarranted intrusion of the federal government into the state's right to dispose of its property.

Although Section 5(3)(B) contains a provision with regard to labor standards for construction projects, no civil rights provision similar to that contained in the Crime Control Act is included. This protection is certainly necessary in an area of such extensive federal involvement.

It should finally be pointed out that the LEAA authorization is scheduled to expire in 1976. Under the terms of the Congressional Budget and Impoundment Control Act of 1974, the Administration's proposal for renewing the authorization is to be delivered to the Congress in 1975. Since the LEAA program will be undergoing comprehensive review in the course of the next year, it would be preferable that any proposals for giving additional authority to the agency be examined in the course of this process, rather than as a separate consideration.

For the reasons indicated, the Department of Justice recommends against enactment of S. 1601.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

(Signed) Michael M. Uhlmann

Michael M. Uhlmann
Assistant Attorney General

94TH CONGRESS
1ST SESSION

S. 1875

IN THE SENATE OF THE UNITED STATES

JUNE 4, 1975

Mr. BEALL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to add a requirement that the comprehensive State plan include provisions for the prevention of crimes against the elderly.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That the fourth sentence of section 303 (a) of the Omnibus
- 4 Crime Control and Safe Streets Act of 1968 is amended
- 5 by inserting before the period a comma and the following:
- 6 "and the prevention of crimes against the elderly".

II

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

October 1, 1975

The Honorable James O. Eastland
Chairman
Committee on the Judiciary
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Justice on S. 1875, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to add a requirement that the comprehensive State plan include provisions for the prevention of crimes against the elderly.

The bill would amend section 303(a) of the Omnibus Crime Control and Safe Streets Act of 1968 by inserting a requirement that the comprehensive plan for law enforcement and criminal justice improvement submitted annually by each state, make provision for the prevention of crimes against the elderly in order for the state to receive funding from the Law Enforcement Assistance Administration.

LEAA's National Crime Panel Victimization surveys on the amount, nature, and impact of crime throughout the country indicate that aged persons (65 years old and older) are generally no more likely to become victims of crime than other population groups. In fact, for many crime categories, the elderly seem to be victimized less frequently than other groups. This may, of course, merely be a reflection of the fact that elderly persons, recognizing their vulnerability to personal attack, are more cautious and security conscious than other groups and, therefore, expose themselves less frequently to risk situations.

Common sense indicates that since elderly people are less able to resist a criminal assault, they would be attractive victims to a street criminal or burglar. An elderly person who locks himself in his apartment in fear of venturing out into a once familiar and safe neighborhood, or one who must take elaborate and unpleasant precautions whenever taking a short trip through an urban area does, in fact, reduce the chances of being

"victimized" by crime, in the normal sense of the word. This safety is, of course, tenuous at best and purchased dearly at the cost of personal liberty and peace of mind, so that these elderly citizens could be considered "victims" of criminal activity.

Because of this situation, LEAA has continued to study and test measures to prevent crimes which seriously affect the elderly. In general, LEAA addresses criminal activities in a number of settings and then develops strategies to reduce the vulnerability of the victims in those settings. At times, these strategies or approaches deal directly with the needs of the elderly. One example is LEAA support for the concept of special housing units for the elderly in public housing projects. This approach has served to reduce the victimization of the elderly in those settings.

Current research efforts of LEAA's National Institute of Law Enforcement and Criminal Justice also have important implications for reducing crime among the elderly. A research program has been initiated which has as a primary goal the design and effective use of the physical environment in order to reduce crime and improve the quality of life. This program is examining the crime problem in a number of environments, including commercial areas.

Since analyses have shown that the elderly are often victims of street crimes such as robberies and muggings, a number of mechanisms are being developed and evaluated in a demonstration site in order to reduce the opportunities for street crime against the elderly. One mechanism provides alternatives to the elderly for carrying cash while shopping. Another provides a low-cost method of transportation to and from commercial areas.

Research is also being carried out to deal with the impact of crime on different victims, with special attention to the needs and problems of the elderly. LEAA is funding several action programs which deal with the needs and problems of crime victims in relation to services which can be provided, both within the criminal justice system and the community at large. These programs recognize the special problems of the elderly as victims of crime.

Attention is also being given to the possible role of the elderly, particularly retired persons, in promoting crime prevention in the community. For example, retired persons might be involved in providing physical security surveys in homes and disseminating security and victim assistance information in their neighborhoods. This could be beneficial to the community as well as providing a meaningful and useful role for elderly persons.

In addition to LEAA efforts, the Federal Bureau of Investigation recently announced a new program designed to involve citizens more effectively in combatting crime. A major feature of the program, which is being conducted in conjunction with The Police Foundation, will involve community organizing efforts to protect the elderly from criminal predators.

In summary, the Department of Justice is continuing to address the problem of the elderly and crime from a number of perspectives. Attention is being given to those settings in which the elderly are most vulnerable to crime in order to develop effective crime prevention strategies for their use. States are also using block grant funds for similar projects. Because of this activity by LEAA, the Department of Justice does not believe that additional legislation is required at this time in the area.

It should finally be pointed out that the LEAA authorization is scheduled to expire in 1976. The Administration's proposal for renewing the authorization is pending in the Congress. Since the LEAA program will be undergoing comprehensive review in the course of the next year, it would be preferable that any proposals for imposing additional requirements on the program be examined in the course of this process, rather than as a separate consideration.

For the reasons indicated, the Department of Justice recommends against enactment of S. 1875.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

MS

Michael M. Uhlmann
Assistant Attorney General

94TH CONGRESS
1ST SESSION

S. 2212

IN THE SENATE OF THE UNITED STATES

JULY 29, 1975

Mr. HRUSKA (for himself and Mr. McCLELLAN) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Crime Control Act of
4 1975".

5 SEC. 2. Section 101 (a) of title I of the Omnibus Crime
6 Control and Safe Streets Act of 1968, as amended, is
7 amended by adding after the word "authority" the words
8 "and policy direction".

9 SEC. 3. Section 205 of such Act is amended by inserting
10 the following new sentence at the end thereof: "Any unused

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1 funds reverting to the Administration shall be available for
2 reallocation among the States as determined by the Adminis-
3 tration.”.

4 PART C—GRANTS FOR LAW ENFORCEMENT PURPOSES

5 SEC. 4. Part C of such Act is amended as follows:

6 (1) Section 301 (b) is amended by inserting after
7 paragraph (10), the following new paragraph:

8 “(11) The development, demonstration, evaluation,
9 implementation, and purchase of methods, devices, personnel,
10 facilities, equipment, and supplies designed to strengthen
11 courts and improve the availability and quality of justice
12 including court planning.”.

13 (2) Section 303 (a) (13) is amended by deleting the
14 words “for Law Enforcement and Criminal” and inserting
15 the words “of Law and”.

16 (3) Section 306 (a) (2) is amended by inserting, after
17 the words “to the grant of any State,” the following “plus
18 any additional amounts that may be authorized to provide
19 funding to areas characterized by both high crime incidence
20 and high law enforcement and criminal justice activity,”.

21 (4) The unnumbered paragraph in section 306 (a) is
22 amended by inserting the following between the present
23 third and fourth sentences: “Where a State does not have an
24 adequate forum to enforce grant provisions imposing liabil-
25 ity on Indian tribes, the Administration is authorized to

1 waive State liability and may pursue such legal remedies
2 as are necessary.”.

3 (5) Subsection (b) of section 306 is amended by strik-
4 ing “(1)” and inserting in lieu thereof “(2)”.

5 PART D—TRAINING, EDUCATION, RESEARCH

6 DEMONSTRATION, AND SPECIAL GRANTS

7 SEC. 5. Part D of such Act is amended as follows:

8 (1) Section 402 (a) is amended by deleting the words
9 “Enforcement” and “Criminal” in the first sentence thereof.

10 (2) Section 402 (a) is further amended by deleting the
11 word “Administrator” in the third sentence and adding the
12 words “Attorney General”.

13 (3) At the end of paragraph (7) in section 402 (b)
14 delete the word “and”.

15 (4) At the end of paragraph (8) in section 402 (b)
16 replace the period with a semicolon.

17 (5) Immediately after paragraph (8) in section 402
18 (b) insert the following new paragraphs:

19 “(9) to make grants to, or enter into contracts
20 with, public agencies, institutions of higher education,
21 or private organizations to conduct research, demon-
22 strations, or special projects pertaining to the civil jus-
23 tice system, including the development of new or
24 improved approaches, techniques, and systems; and

25 “(10) the Institute is authorized to conduct such

1 research, demonstrations, or special projects pertaining
2 to new or improved approaches, techniques, systems,
3 equipment, and devices to improve and strengthen such
4 Federal law enforcement and criminal justice activities
5 as the Attorney General may direct.”.

6 PART E—GRANTS FOR CORRECTIONAL INSTITUTIONS
7 AND FACILITIES

8 SEC. 6. Part E of such Act is amended as follows:

9 (1) By inserting in section 455 (a) (2) after the sec-
10 ond occurrence of the word “units,” and before the word
11 “according” the words “or nonprofit organizations,”.

12 (2) By further amending section 455.(a) by inserting
13 at the end of the unnumbered paragraph thereof the fol-
14 lowing new sentence: “In the case of a grant to an Indian
15 tribe or other aboriginal group, if the Administration deter-
16 mines that the tribe or group does not have sufficient funds
17 available to meet the local share of the costs of any pro-
18 gram or project to be funded under the grant, the Admin-
19 istration may increase the Federal share of the cost thereof
20 to the extent it deems necessary. Where a State does not
21 have an adequate forum to enforce grant provisions impos-
22 ing liability on Indian tribes, the Administration is author-
23 ized to waive State liability and may pursue such legal rem-
24 edies as are necessary.”.

1 PART F—ADMINISTRATIVE PROVISIONS

2 SEC. 7. Part F of such Act is amended as follows:

3 (1) Section 512 is amended by striking the words:
4 “June 30, 1974, and the two succeeding fiscal years.” and
5 insert in lieu thereof; “July 1, 1976, through fiscal year
6 1981.”.

7 (2) Section 517 is amended by adding a new subsec-
8 tion (c) as follows:

9 “(c) The Attorney General is authorized to establish
10 an Advisory Board to the Administration to review pro-
11 grams for grants under sections 306 (a) (2), 402 (b), and
12 455 (a) (2). Members of the Advisory Board shall be chosen
13 from among persons who by reason of their knowledge and
14 expertise in the area of law enforcement and criminal jus-
15 tice and related fields are well qualified to serve on the
16 Advisory Board.”.

17 (3) Section 520 is amended by striking all of sub-
18 section (a) and (b) and inserting in lieu thereof the
19 following:

20 “(a) There are authorized to be appropriated such sums
21 as are necessary for the purposes of each part of this title, but
22 such sums in the aggregate shall not exceed \$325,000,000 for
23 the period July 1, 1976, through September 30, 1976,
24 \$1,300,000,000 for the fiscal year ending September 30,

1 1977, \$1,300,000,000 for the fiscal year ending September
2 30, 1978, \$1,300,000,000 for the fiscal year ending Septem-
3 ber 30, 1979, \$1,300,000,000 for the fiscal year ending
4 September 30 1980, and \$1,300,000,000 for the fiscal year
5 ending September 30, 1981. From the amount appropriated
6 in the aggregate for the purposes of this title such sums shall
7 be allocated as are necessary for the purposes of providing
8 funding to areas characterized by both high crime incidence
9 and high law enforcement and criminal justice activities, but
10 such sums shall not exceed \$12,500,000 for the period July
11 1, 1976, through September 30, 1976, and \$50,000,000 for
12 each of the fiscal years enumerated above and shall be in
13 addition to funds made available for these purposes from
14 other sources. Funds appropriated for any fiscal year may
15 remain available for obligation until expended. Beginning
16 in the fiscal year ending June 30, 1972, and in each fiscal
17 year thereafter there shall be allocated for the purpose of
18 part E an amount equal to not less than 20 per centum of
19 the amount allocated for the purposes of part C.

20 “(b) Funds appropriated under this title may be used
21 for the purposes of the Juvenile Justice and Delinquency
22 Prevention Act of 1974.”

23 SEC. 8. The Juvenile and Delinquency Prevention Act
24 of 1974 is amended as follows:

- 1 (1) Section 241 (c) is amended by deleting the words
- 2 “Enforcement” and “Criminal”.
- 3 (2) Section 261 is amended by deleting subsection (b).
- 4 (3) Section 544 is deleted.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., July 23, 1975.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: I am pleased to forward for your consideration a proposed "Crime Control Act of 1976." This proposed bill amends the Omnibus Crime Control and Safe Streets Act of 1968, and extends the authority for the Law Enforcement Assistance Administration for five fiscal years, including the transition quarter.

In his crime message of June 19th, the President stressed the necessity to deal resolutely with violent crime. He called on all levels of government—Federal, State and local—to commit themselves to the goal of reducing crime by seeking improvements in law and the criminal justice system. This bill provides additional authorization to the Law Enforcement Assistance Administration to assist States and units of local government with up to \$262.5 million through 1981 for special programs aimed at reducing crime in heavily populated urban areas. These funds would be in addition to funds committed from LEAA block grants.

The legislative proposal includes an amendment that will place special emphasis on improving State and local court systems within the LEAA block grant authorization.

The bill also authorizes the Attorney General to appoint an Advisory Board to review grant programs under Parts C, D, and E of the Omnibus Crime Control and Safe Streets Act and to advise the Administrator of LEAA on these programs.

In addition, the proposal authorizes both direct funding to nonprofit organizations under Part E of the Act and the waiver of a State's liability where a State lacks jurisdiction to enforce grant agreements with Indian tribes.

The bill further provides that the National Institute of Law Enforcement and Criminal Justice be renamed the National Institute of Law and Justice. The Attorney General is given the authority to appoint the Director of the Institute and to direct the Institute to conduct research related to Federal activities. In addition, the Institute would be authorized to conduct civil as well as criminal justice research.

Finally, the proposal authorizes \$6.85 billion dollars for LEAA programs through 1981. LEAA funds could be used for the purposes of the Juvenile and Delinquency Prevention Act and the requirements for maintenance of effort by LEAA in the juvenile justice and delinquency prevention areas would be deleted.

I recommend prompt and favorable consideration of the proposed "Crime Control Act of 1976." In addition to the bill, there is enclosed a section-by-section analysis.

The Office of Management and Budget has advised that there is no objection to the submission of this legislative proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

EDWARD H. LEVI,
Attorney General.

SECTIONAL ANALYSIS

Section 1 provides that the short title of the Act is the "Crime Control Act of 1976."

Section 2 amends Section 101(a) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, by providing that the LEAA will be under the policy direction of the Attorney General.

Section 3 amends Section 205 of such Act, by providing that planning funds awarded to the States which remain unused will revert to the Administration and be available for reallocation to the States at the discretion of the Administration.

Section 4 amends in five separate respects, Part C of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

(1) Section 301(b) is amended by adding a new paragraph (11) authorizing the Administration to make grants for programs and projects designed to strengthen courts and improve the availability and quality of justice. Grants for court planning are also authorized.

(2) Section 303a() (13) is amended to conform to Section 402(a).

(3) Section 306(a) (2) is amended to allow the Administration to provide additional funds to areas having high crime incidence and high law enforcement and criminal justice activities where such additional funds are authorized for that purpose.

(4) Section 306(a) is further amended by providing that where a State lacks jurisdiction to enforce liability under State grant agreements with Indian tribes, the Administration may waive the State's liability and proceed directly with the Indian tribe on settlement actions.

(5) Section 306(b) is amended to provide funds allocated to a State for any fiscal year but not utilized by the State or where the State is unable to qualify to receive any portion of the funds that such funds may be reallocated by the Administration under its discretionary funding authority in Section 306(a) (2).

Section 5 amends Part D of the Act by providing that (1) the National Institute of Law Enforcement and Criminal Justice is renamed the "National Institute of Law and Justice"; (2) the Attorney General shall appoint the Director of the National Institute of Law and Justice; (3) the Institute is authorized to fund projects pertaining to the civil justice system; and (4) the Institute is authorized to conduct activities relating to Federal law enforcement and criminal justice activities at the Attorney General's direction.

Section 6 amends Part E of the Act in two ways:

(1) Section 455(a) (2) is amended to authorize the Administration to make Part E grants directly to nonprofit organizations.

(2) The subsection is further amended to authorize the Administration to waive the non-Federal match on grants to Indian tribes or other aboriginal groups where they have insufficient funds. In addition, where a State lacks jurisdiction to enforce liability under State grant agreements with Indian tribes, the Administration may waive the State's liability and proceed directly with the Indian tribe on settlement actions.

Section 7 amends three of the administrative provisions of Part F of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

(1) Section 512 is amended to authorize the continuation of the LEAA program through FY 1981.

(2) Section 517 is amended by adding a new subsection (c) authorizing the Attorney General to establish an Advisory Board to the Administration to review programs for Part C and Part E discretionary funding and Part D Institute funding. The Advisory Board will not have the authority to review and approve individual grant applications.

(3) Section 520 is amended to authorize appropriations through FY 1981. This section also authorizes the Administration to allocate from the aggregate appropriated funds, sums not to exceed \$50,000,000 each fiscal year for areas having high crime incidence and high law enforcement and criminal justice activities. In addition, subsection (b) has been deleted and a new subsection (b) has been added to authorize the use of funds under this title for the general purposes of the Juvenile Justice and Delinquency Prevention Act. Such funds would be spent in accordance with the fiscal and administrative requirements of the Omnibus Crime Control and Safe Streets Act.

Section 8 amends in three separate respects the Juvenile Justice and Delinquency Prevention Act of 1974.

(1) Section 241(c) is amended to conform to Section 402(a) of the Omnibus Crime Control and Safe Streets Act.

(2) Section 261 is amended to remove the maintenance of effort provision.

(3) Section 544 is deleted for the same reason.

94TH CONGRESS
1ST SESSION

S. 2245

IN THE SENATE OF THE UNITED STATES

JULY 31, 1975

Mr. FONG introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to include the Trust Territory of the Pacific Islands.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 601 (c) of the Omnibus Crime Control and
4 Safe Streets Act of 1968 is amended by inserting after
5 Puerto Rico a comma and the following: "the Trust Ter-
6 ritory of the Pacific Islands".

II

94TH CONGRESS
2D SESSION

S. 3043

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 1976

Mr. KENNEDY (for himself, Mr. BEALL, Mr. DURKIN, Mr. GARY HART, Mr. PHILIP A. HART, Mr. HASKELL, Mr. INOUE, Mr. MCGOVERN, Mr. MANSFIELD, Mr. MONTOYA, Mr. PELL, Mr. PERCY, Mr. RIBICOFF, Mr. SPARKMAN, and Mr. STAFFORD) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Law Enforcement Im-
4 provement Act of 1976."

5 SEC. 2. The "Declaration and Purpose" of title I of the
6 Omnibus Crime Control and Safe Streets Act of 1968, as
7 amended, is amended as follows:

8 (1) by inserting between the second and third
9 paragraphs the following additional paragraph:

II

1 “Congress finds further that the financial and technical
2 resources of the Federal Government should be used to pro-
3 vide constructive leadership and direction to State and local
4 governments in combating the serious problem of crime and
5 that the Federal Government should assist State and local
6 governments in evaluating the impact and value of programs
7 developed and adopted pursuant to this title.”

8 (2) by deleting the third paragraph and substi-
9 tuting in lieu thereof the following new paragraph:

10 “It is therefore the declared policy of the Congress to
11 assist State and local governments in strengthening and
12 improving law enforcement and criminal justice at every
13 level by national assistance. It is the purpose of this title
14 that the Federal Government (1) provide constructive
15 leadership and direction to States and units of local govern-
16 ment in the development and adoption of comprehensive
17 plans designed to deal with their particular problems of law
18 enforcement and criminal justice; (2) authorize, following
19 evaluation and approval of comprehensive plans, grants to
20 States and units of local government in order to improve
21 and strengthen law enforcement and criminal justice; and
22 (3) provide constructive leadership and direction to States
23 and units of local government in order to encourage research
24 and development directed toward the improvement of law
25 enforcement and criminal justice and the development of

1 new methods for the prevention and reduction of crime and
2 the detection, apprehension, and rehabilitation of criminals.”

3 SEC. 3. Section 101 (a) of title I of the Omnibus Crime
4 Control and Safe Streets Act of 1968, as amended, is
5 amended by adding after the word “authority” the words
6 “policy direction and control”.

7 PART B—PLANNING GRANTS

8 SEC. 4. Section 201 of such Act is amended by adding
9 after the word “part” the words “that the Administration
10 provide constructive leadership and direction”, and by strik-
11 ing the period at the end of said section and adding the
12 following “and evaluation by the Administration of the
13 policies, priorities, and plans needed to reduce and prevent
14 crime.”

15 SEC. 5. Subsection (b) of section 203 is amended by
16 striking the dash after the word “shall” and by adding the
17 following, “at the direction and guidance of the Adminis-
18 tration”.

19 SEC. 6. Section 203 is amended by—

20 (1) inserting in subsection (a) immediately after
21 the third sentence the following new sentence: “Said
22 State planning agency shall include both a representative
23 of the chief justice or chief judge of the court of last
24 resort and the court administrator or other appropriate
25 judicial officer of the State. Said members shall be se-

1 lected by the chief executive of the State from a list of
2 nominees submitted by the chief justice or chief judge
3 of the court of last resort.”;

4 (2) inserting the following new subsection after
5 subsection (d) :

6 “(e) In addition to the State planning agencies estab-
7 lished under this section, a State may establish or designate
8 a judicial planning committee for the preparation, develop-
9 ment, and revision of a State judicial plan submitted to the
10 State planning agency under section 303 of this title. Such
11 committee shall be created or designated by the court of last
12 resort of each State. The chief justice or other highest rank-
13 ing judicial officer of the State court of last resort shall
14 appoint the members of the judicial planning committee and
15 such members shall be subject to the jurisdiction of, and serve
16 at the pleasure of, the chief justice. The committee shall be
17 reasonably representative of the various local and State courts
18 of the State, including both civil and criminal trial courts,
19 intermediate appellate courts and other courts of general or
20 limited or special jurisdiction. All requests for financial assist-
21 ance from such courts shall be received by the judicial plan-
22 ning committee. Said committee shall review all such requests
23 for appropriateness and conformity with the purposes of this
24 title and the findings and declared policy of Congress and
25 may thereafter—

1 “(1) develop, in accordance with part C, an annual
2 application to be included in the State comprehensive
3 plan;

4 “(2) develop, in accordance with section 304(b),
5 a multiyear comprehensive plan for the improvement of
6 State court systems;

7 “(3) define, develop, and coordinate programs and
8 projects for the improvement of courts of the State;

9 “(4) establish priorities for the improvement of the
10 courts of the State;

11 “(5) collect and compile statistical data and other
12 information on the work of the courts and on the work of
13 other agencies which relate to and affect the work of the
14 courts;

15 “(6) examine the state of the dockets, practices,
16 and procedures of the courts and develop programs for
17 expediting litigation and reducing court congestion;

18 “(7) provide for the revision of court rules and
19 procedural codes within the rulemaking authority of
20 courts or other judicial entities within the State;

21 “(8) provide for the investigation of complaints
22 with respect to the operation of courts and develop such
23 corrective measures as may be appropriate;

24 “(9) provide for the training of judges, court

1 administrators and support personnel, and attorneys
2 who regularly appear in the courts;

3 “(10) provide for support of public education pro-
4 grams concerned with the administration of justice;

5 “(11) provide for support of national nonprofit
6 court technical assistance and support organizations gov-
7 erned or controlled by the judicial branch of government
8 of the several States;

9 “(12) provide for the construction and equipping
10 of buildings or other physical facilities which would ful-
11 fill or implement the purposes of this subsection and of
12 section 301 (b) (11) ; and

13 “(13) perform other duties necessary to carry out
14 the intent of this subsection.

15 “The State planning agency shall request the advice and
16 assistance of the judicial planning committee in carrying out
17 its functions under section 203 insofar as said functions affect
18 the State court system and the judicial planning committee
19 shall consult with, and shall seek the advice of, the State
20 planning agency in carrying out its functions under this title.
21 The expenses necessarily incurred by the judicial planning
22 committee, including the cost of adequate staff support for
23 the activities of the committee shall be provided by the State
24 planning agency through a yearly grant to be provided to the
25 committee. If a State judicial branch does not create or desig-

1 nate a judicial planning committee, or if the committee fails
2 to submit a multiyear comprehensive plan and annual appli-
3 cation in accordance with the provisions of subsection (b) of
4 section 304 of this title, then in such case the responsibility
5 for preparing and developing such plan and application shall
6 rest with the State planning agency."

7 PART C—GRANTS FOR LAW ENFORCEMENT PURPOSES

8 SEC. 7. Section 301 is amended by:

9 (1) inserting after the word "part" in subsection
10 (a) the following words "that the Administration pro-
11 vide constructive leadership and direction."

12 (2) inserting after paragraph (10) of subsection
13 (b) the following new paragraphs:

14 "(11) The development, demonstration, evaluation, im-
15 plementation, and purchase of methods, devices, personnel,
16 facilities, equipment, and supplies designed to strengthen
17 courts, reduce court congestion and backlog, and improve the
18 availability and quality of justice.

19 "(12) The development and operation of programs
20 designed to reduce and prevent crime against elderly per-
21 sons."

22 (3) repealing subsection (d) of section 301.

23 SEC. 8. Section 302 is hereby amended by inserting the
24 following at the end of the section: "In addition, any State
25 judiciary desiring to participate in the preparation, develop-

1 ment, and revision of multiyear comprehensive plan under
2 this part may establish a judicial planning committee as de-
3 scribed in part B of this title and shall file by the end of
4 fiscal year 1977 and annually thereafter with the Adminis-
5 tration and State planning agency, for information purposes
6 only, a multiyear comprehensive plan for the improvement
7 of the State court system. Such plan shall be based on the
8 needs of all the courts in the State and on an estimate of
9 funds available from all State, local, as well as Federal
10 sources. Within six months of the date of enactment of this
11 Act and annually thereafter such committee shall submit its
12 application for funding of programs and projects recom-
13 mended by the committee to the State planning agency for
14 review and incorporation into the comprehensive State plan
15 submitted to the Administration in accordance with subsec-
16 tion (a) of this section. Such application shall conform to
17 the purposes of this part and to the multiyear comprehensive
18 plan for the improvement of the State court system provided
19 for in section 203 of this title.”

20 SEC. 9. Section 303 is amended by:

21 (1) deleting paragraph (4) of subsection (a) and
22 substituting in lieu thereof the following new para-
23 graph:

24 “(4) Specify procedures under which plans may be
25 submitted annually by major cities and urban counties or

1 combinations thereof, to use funds received under this part
2 to carry out local comprehensive plans for law enforcement
3 and criminal justice. Such local comprehensive plans shall
4 be consistent with the State comprehensive plan for the
5 improvement of law enforcement and criminal justice in
6 the jurisdiction covered by the plan. Eligibility for grants
7 under this paragraph shall be determined on the basis of
8 provisions and guidelines contained in part G, paragraph
9 (p) of the Act. and the State planning agency may
10 approve or disapprove of the local comprehensive plan in
11 whole or in part, based upon its compatibility with the
12 State comprehensive plan and subsequent annual evalua-
13 tions and revisions. Approval of such local comprehensive
14 plans or parts thereof shall result in the award of funds to
15 the major cities or urban counties or combinations thereof
16 to implement the approved parts of their plans."

17 (2) striking in paragraph (12) the words "as
18 may be" and adding the following words after the
19 words "procedures": "as the Administration may
20 deem".

21 (3) deleting subsection (b) of section 303 and
22 substituting in lieu thereof the following new subsec-
23 tion:

24 "(b) The Administration shall have the primary
25 responsibility of evaluating the effectiveness and im-

1 pact of those State plans that it approves. No approval
 2 shall be given to any State plan unless and until the
 3 Administration makes an affirmative finding in writing
 4 that such plan reflects a determined effort to improve
 5 the quality of law enforcement and criminal justice
 6 throughout the State, and that, on the basis of evalu-
 7 ations made by the Administration, such plan is likely
 8 to make a significant and effective contribution to the
 9 State's efforts to deal with crime."

10 (4) inserting in subsection (c) after the word,
 11 "unless" the following words "the Administration finds
 12 that".

13 (5) inserting the following new subsection after
 14 subsection (c) :

15 "(d) the Administration shall provide funds under this
 16 section to a State planning agency to fund the plan of the
 17 judicial planning committee if such committee has on file
 18 with both the Administration and the State planning agency
 19 a multiyear comprehensive plan provided for in section 203
 20 of this title. Such multiyear comprehensive plan for the
 21 improvement of the State court system shall :

22 "(1) provide for the administration of programs
 23 and projects contained in the approved annual applica-
 24 tion of the judicial planning committee ;

25 "(2) adequately take into account the needs and

1 problems of all courts in the State and encourage initia-
2 tive by the appellate and trial courts of general and
3 special jurisdiction in the development of programs and
4 projects for law reform, improvement in the administra-
5 tion of courts and activities within the responsibility of
6 the courts, including but not limited to bail and pretrial
7 release services, and provide for an appropriately bal-
8 anced allocation of funds between the statewide judicial
9 system and other appellate and trial courts of general
10 and special jurisdiction;

11 “(3) provide for procedures under which plans and
12 requests for financial assistance from all courts in the
13 State may be submitted annually to the judicial planning
14 committee for approval or disapproval in whole or in
15 part;

16 “(4) incorporate innovations and advanced tech-
17 niques and contain a comprehensive outline of priorities
18 for the improvement and coordination of all aspects of
19 courts and court programs, including descriptions of (a)
20 general needs and problems; (b) existing systems; (c)
21 available resources; (d) organizational systems and ad-
22 ministrative machinery for implementing the plan; (e)
23 the direction, scope, and general types of improvements
24 to be made in the future; and (f) to the maximum
25 extent applicable, indicate the relationship of the plan

1 to other relevant State or local law enforcement and
2 criminal justice plans and systems;

3 “(5) provide for effective utilization of existing
4 facilities and permit and encourage units of general local
5 government to combine or provide for cooperative ar-
6 rangements with respect to services, facilities, and equip-
7 ment provided for courts and related purposes;

8 “(6) provide for research, development, and evalu-
9 ation;

10 “(7) set forth policies and procedures designed to
11 assure that Federal funds made available under this title
12 will be so used as not to supplant State or local funds,
13 but to increase the amounts of such funds that would in
14 the absence of such Federal funds be made available for
15 the courts;

16 “(8) provide for such fund accounting, auditing,
17 monitoring, and program evaluation procedures as may
18 be necessary to assure sound fiscal control, effective man-
19 agement, and efficient use of funds received under this
20 title;”

21 SEC. 10. Section 304 is hereby amended by inserting
22 an “(a)” before the word “State” and by inserting the
23 following new subsection at the end of the section:

24 “(b) After consultation with the State planning agency
25 pursuant to subsection (e) of section 203 the judicial plan-

1 ning committee shall transmit the plan approved by it and
2 the application for financial assistance based on such plan to
3 the State planning agency. Such application shall be pre-
4 sumptively valid. Unless the State planning agency there-
5 after determines that such application is not in accordance
6 with the purposes stated in sections 301 (b) (11) and 303
7 (d), is not in conformance with, or consistent with, the
8 statewide comprehensive law enforcement plan, or does not
9 conform with the fiscal accountability standards of the State
10 planning agency, the State planning agency shall incorporate
11 such application, in whole or in part, in the comprehensive
12 State plan to be submitted to the Administration. If the State
13 planning agency finds that such application does not meet
14 the requirements of this subsection it shall notify the com-
15 mittee in writing within ten days after making such determi-
16 nation, explaining in detail the reasons for rejecting said
17 application. The committee shall thereafter have a period
18 of thirty days from the receipt of the State planning agency's
19 rejection to submit a modified application. If the State plan-
20 ning agency finds that the application does not meet the
21 requirements of this subsection, or if the committee does not
22 submit a modified application within the specified period,
23 the State planning agency shall forward such application to
24 the Administration. A final determination of whether such
25 application meets the requirements of this subsection shall

1 be made by the Administration pursuant to section 308 of
2 this title. Any application not acted upon by the State plan-
3 ning agency within ninety days of receipt from the judicial
4 planning committee shall be deemed approved and incorpo-
5 rated into the comprehensive State plan submitted to the
6 Administration. The State planning agency shall thereafter
7 disburse the approved funds to the committee in accordance
8 with procedures established by the Administration."

9 SEC. 11. Section 306 is amended by:

10 (1) inserting in paragraph (2) of subsection (a),
11 after the words "to the grant of any State," the follow-
12 ing: "plus any additional amounts that may be author-
13 ized to provide funding to areas characterized by high
14 crime incidence, high law enforcement and criminal
15 justice activity, and serious court congestion and back-
16 log," and is further amended by substituting at the
17 end of the paragraph a comma in place of the period,
18 and by inserting the following: "except that no less
19 than one-third of the funds made available under this
20 paragraph shall be distributed by the Administration in
21 its discretion to promote and advance the purposes men-
22 tioned in sections 301 (b) (11) and 303 (d) of this
23 title."

24 (2) deleting, in the paragraph following paragraph
25 (2), after the words "to the extent it deems necessary,"

1 the following sentence: "The limitations on the expendi-
2 tures of portions of grants for the compensation of
3 personnel in subsection (d) of section 301 of this title
4 shall apply to a grant under such paragraph."

5 (3) inserting, in the paragraph following para-
6 graph (2), a comma in place of the period after "pri-
7 vate nonprofit organization" and by adding thereafter
8 the following: "as well as moneys appropriated to
9 courts, court-related agencies, and judicial systems."

10 SEC. 12. Section 307 is hereby amended by deleting
11 the words "and of riots and other violent civil disorders" and
12 by substituting in lieu thereof, the following: "and with
13 programs and projects designed to reduce court congestion
14 and backlog and to improve the fairness and efficiency of the
15 judicial system."

16 SEC. 13. Section 308 is amended by deleting the phrase
17 "section 302 (b)" and substituting in lieu thereof the words
18 "sections 302 and 515".

19 SEC. 14. Subsection (c) of section 402 is amended by
20 adding the following sentence at the end of the second para-
21 graph of that subsection: "The Institute shall also assist the
22 Deputy Administrator for Administration of the Law En-
23 forcement Assistance Administration in the performance of
24 those matters mentioned in section 515 of this title."

PART F—ADMINISTRATIVE PROVISIONS

1 SEC. 15. Section 501 of part F of such Act is hereby
2 amended by inserting at the end of such section the following
3 sentence: "The Administration shall also establish under
4 the direction of the Deputy Administrator for Administration
5 of the Law Enforcement Assistance Administration and in
6 accordance with the provisions of section 515 of this title
7 such rules and regulations as are necessary to assure the
8 proper auditing, monitoring, and evaluation by the Adminis-
9 tration of both the comprehensiveness and impact of pro-
10 grams funded under this title in order to determine whether
11 such programs submitted for funding are likely to contribute
12 to the reduction and prevention of crime and juvenile delin-
13 quency and whether such programs once implemented have
14 achieved the goals stated in the original plan and appli-
15 cation."

17 SEC. 16. Section 512 is amended by striking the words:
18 "June 30, 1974," and inserting in lieu thereof: "July 1,
19 1976".

20 SEC. 17. Section 515 is amended to read as follows:
21 "SEC. 515. Subject to the general supervision of the
22 Attorney General, and under the direction of the Administra-
23 tor of Law Enforcement Assistance, the Deputy Administra-
24 tor for Administration of the Law Enforcement Assistance

1 Administration shall conduct, handle and supervise the
2 following matters—

3 “(a) review, analyze, and evaluate comprehensive
4 State plans submitted by the State planning agencies in
5 order to determine whether the use of financial resources
6 and estimates of future requirements as requested in the
7 plan take into account needed policies, priorities, and
8 plans for reducing and preventing crime as determined
9 by the Administration. The Deputy Administrator shall,
10 if warranted, thereafter make recommendations to the
11 State planning agencies concerning improvements to be
12 made in said comprehensive plans;

13 “(b) assure that the membership of the State plan-
14 ning agency is fairly representative of all components
15 of the criminal justice system and review, prior to ap-
16 proval, the preparation, justification, and execution of
17 the comprehensive plans to determine whether the State
18 planning agencies are coordinating and controlling the
19 disbursement of the Federal funds provided under this
20 title in a fair and proper manner to all components of
21 the State and local criminal justice system. To assure
22 such fair and reasonable disbursement the Deputy Ad-
23 ministrator may require that the State planning agencies
24 submit, in advance and for approval a financial analysis

1 of the Federal funds to be made available under this title
2 to each component of the State and local criminal justice
3 system;

4 “(c) develop and direct financial auditing policies,
5 programs, procedures, and systems, including financial
6 accounting planning and analysis to determine the im-
7 pact and value of programs funded pursuant to this title
8 and whether such funds should continue to be allocated
9 for such programs;

10 “(d) supervise and direct independent and compre-
11 hensive auditing of the comprehensive plans to assure
12 that the programs, functions, and management of the
13 State planning agencies are being carried out efficiently
14 and economically;

15 “(e) assist in the preparation of the detailed Annual
16 Report of the Administration to be submitted to the
17 President and to the Congress pursuant to section 519
18 of this title. Such report shall describe in detail the
19 measures taken by the Deputy Administrator to comply
20 with the provision of this section. The Administration
21 is also authorized—

22 “(f) to collect, evaluate, publish, and disseminate
23 statistics and other information on the condition and
24 progress of law enforcement within and without the
25 United States; and

1 “(g) to cooperate with and render technical as-
2 sistance to States, units of general local government,
3 combinations of such States or units, or other public or
4 private agencies, organizations, institutions, or interna-
5 tional agencies in matters relating to law enforcement
6 and criminal justice.

7 Funds appropriated for the purposes of this section may be
8 expended by grant or contract, as the Administration may
9 determine to be appropriate.”

10 SEC. 18. Section 517 is amended by adding the following
11 new subsection:

12 “(c) The Attorney General is authorized to establish
13 an Advisory Board to the Administration to review programs
14 for grants under sections 306 (a) (2), 402 (b), and 455 (a)
15 (2). Members of the Advisory Board shall be chosen from
16 among persons who by reason of their knowledge and exper-
17 tise in the area of law enforcement and criminal justice and
18 related fields are well qualified to serve on the Advisory
19 Board.”.

20 SEC. 19. Section 519 is amended to read as follows:

21 “SEC. 519. (a) On or before December 31 of each year,
22 the Administration shall report to the President and to the
23 Committees on the Judiciary of the Senate and House of
24 Representatives on activities pursuant to the provisions of

1 this title during the preceding fiscal year. Such report shall
2 include—

3 “(1) a detailed explanation of the policies, pri-
4 orities, and plans for reducing and preventing crime
5 recommended by the Administration during the preced-
6 ing fiscal year in the course of providing leadership and
7 direction to State and local governments pursuant to this
8 title;

9 “(2) a detailed explanation of the procedures fol-
10 lowed by the Administration in reviewing, evaluating,
11 and processing the comprehensive State plans submitted
12 by the State planning agencies;

13 “(3) the number of comprehensive State plans
14 approved by the Administration without substantial
15 changes being recommended in the criminal justice pol-
16 icy and priorities of each State;

17 “(4) the number of comprehensive State plans
18 approved or disapproved by the Administration after
19 substantial changes were recommended in the criminal
20 justice policy and priorities of each State:

21 “(5) the number of State comprehensive plans
22 funded under this title during the preceding three fiscal
23 years in which the funds allocated have not been
24 expended in their entirety; .

25 “(6) the number of programs funded under this

1 title which were subsequently discontinued by the Ad-
2 ministration following a finding that the program had no
3 appreciable impact in reducing and preventing crime;

4 “(7) the number of programs funded under this
5 title which were subsequently discontinued by the States
6 following the termination of funding under this title;

7 “(8) a detailed financial analysis of each State com-
8 prehensive plan showing the amounts expended among
9 the various components of the criminal justice system;

10 “(9) a detailed explanation of the measures taken
11 by the Administration to audit and monitor criminal
12 justice programs funded under this title in order to
13 determine the impact and value of such programs in
14 reducing and preventing crime;

15 “(10) a detailed explanation of how the funds made
16 available under section 306(a) (2) of this title were
17 expended.

18 “(b) The Committees on the Judiciary of the Senate
19 and House of Representatives may periodically conduct pub-
20 lic hearings to review and examine the activities of the
21 Administration performed under this title. Such hearings
22 may focus on the policies of priorities established by the
23 Administration to reduce and prevent crime and the audit-
24 ing, monitoring, and evaluation procedures carried out by
25 the Administration pursuant to this title.”

1 SEC. 20. Section 520 is amended by striking all of sub-
2 section (a) and (b) and inserting in lieu thereof the follow-
3 ing:

4 “(a) There are authorized to be appropriated such sums
5 as are necessary for the purposes of each part of this title, but
6 such sums in the aggregate shall not exceed \$325,000,000
7 for the period July 1, 1976, through September 30, 1976,
8 \$1,300,000,000 for the fiscal year ending September 30,
9 1977, and \$1,300,000,000 for the fiscal year ending Septem-
10 ber 30, 1978. From the amount appropriated in the aggre-
11 gate for the purposes of this title such sums shall be allocated
12 as are necessary for the purposes of providing funding to
13 areas characterized by high crime incidence, high law enforce-
14 ment and criminal justice activities, and serious court conges-
15 tion and backlog, but such sums shall not exceed \$12,500,000
16 for the period July 1, 1976, through September 30, 1976,
17 and \$50,000,000 for each of the fiscal years enumerated
18 above which sums shall be in addition to funds made avail-
19 able for these purposes from the other provisions of this title
20 as well as from other sources. Funds appropriated for any
21 fiscal year may remain available for obligation until ex-
22 pended. Beginning in the fiscal year ending June 30, 1972,
23 and in each fiscal year thereafter there shall be allocated for
24 the purpose of part E an amount equal to not less than 20
25 per centum of the amount allocated for the purpose of part C.

1 States having two courts with highest and final appellate
2 authority, court of last resort shall mean that highest appel-
3 late court which also has either rulemaking authority or ad-
4 ministrative responsibility for the State's judicial system and
5 the institutions of the State judicial branch. The term 'court'
6 shall mean a tribunal recognized as a part of the judicial
7 branch of a State or of its local government units."

Senator McCLELLAN. This agency has been in existence now for 7 years and it is time to completely review its program, to assess the work it has done, and make determinations as to how it can be improved and whether we are getting value received for the money expended.

That is the prime objective of these hearings and we will proceed on that premise.

Senator Beall, we welcome you this morning. We are very glad to have you as our first witness this morning.

**STATEMENT OF HON. J. GLENN BEALL, U.S. SENATOR FROM THE
THE STATE OF MARYLAND**

Senator BEALL. I am happy to be your first witness this morning. I commend you for holding these hearings that will provide a thorough review of the Omnibus Crime Control and Safe Street Act of 1968, and I am happy to testify on S. 1875, legislation I introduced on June 4 which would amend that Act by adding to it the requirement that the comprehensive State plan include provisions for the prevention of crimes against the elderly.

In order to expedite your proceedings here this morning, I would ask that a statement I have prepared, along with supporting documents, be included in its entirety in the hearing record.

Senator McCLELLAN. They may be received and printed in the record.

[The documents referred to follow:]

TESTIMONY BY SENATOR J. GLENN BEALL, JR.

Mr. Chairman, it is a pleasure for me to have an opportunity to testify before this subcommittee on S. 1875, legislation I introduced on June 4, 1975, which would amend the Omnibus Crime Control and Safe Streets Act of 1968 to add a requirement that the comprehensive State plan include provisions for the prevention of crimes against the elderly. S. 1875 has been cosponsored by Senators: Bill Brock, James L. Buckley, Alan Cranston, Peter V. Domenici, Paul J. Fannin, Paul Laxalt, Charles McC. Mathias, Frank E. Moss, Clairborne Pell, Hugh Scott, and Strom Thurmond. I believe that these 11 cosponsors reflect a broad cross section of the Senate favoring the enactment of legislation such as S. 1875.

The National Crime Panel survey report which was issued in November 1974 stated that—

"Throughout the United States during the first six months of 1973, crimes of violence and common theft, including attempts, accounted for approximately 18 million victimizations of persons age 13 and over, households, and businesses."

In his June 19, 1975, message to Congress on crime, President Ford stated that:

"Law makes human society possible. It pledges safety to every member so that the company of fellow human beings can be a blessing instead of a threat. It is the instrument through which we seek to fulfill the promise of our Constitution: to insure domestic tranquility.

"But America has been far from successful in dealing with the sort of crime that obsesses America day and night—I mean street crime, crime that invades our neighborhoods and our homes—murders, robberies, rapes, muggings, hold-ups, break-ins—the kind of brutal violence that makes us fearful of strangers and afraid to go out at night.

"I sense, and I think the American people sense, that we are facing a basic and very serious problem of disregard for the law. Because of crime in our streets and in our homes, we do not have domestic tranquility."

The President went on to note that "for too long, law has centered its attention more on the rights of the criminal defendant than on the victim of crime. It is time for law to concern itself more with the rights of the people it exists to protect."

On July 22, the Department of Justice reported that "serious crime in the United States rose 18 percent during the first three months of 1975 . . ." Attorney General Levi called this epidemic of crime "one of the terrifying facts of life, which we have come to accept as normal, and which we must not accept as normal."

Recent crime statistics are startling to every individual in this country and indeed they may reveal inadequacies in our present criminal justice system. But these statistics are particularly disconcerting to senior citizens who are less able to resist becoming victims of crime.

In addition, elderly persons, recognizing their vulnerability to personal attack, are more cautious and security conscious than other groups, and therefore, expose themselves less frequently to risk situations. Certainly, common sense seems to tell us that since elderly people are less able to resist a criminal assault, they would be more attractive victims to a criminal.

The current data does not reveal how many senior citizens are actually exposed to a high crime-risk situation in a given period of time. As stated by the L.E.A.A. Administrator in a presentation to the U.S. Senate Special Committee on Aging's Subcommittee on Housing for the Elderly on August 2, 1972:

"A senior citizen who either locks himself in his apartment in fear of even venturing out into a once familiar and safe neighborhood or one who must take elaborate and unpleasant precautions whenever taking a short trip through an urban area does, in fact, reduce the chances of being victimized by crime."

A survey of various American cities shows a clearer picture of the crime threat confronting older persons. For example a survey by LEAA of victimization rates in Baltimore, Maryland, indicated that persons 50 years old and older had twice the victimization rate for robbery with injury than persons aged 20 to 24 years old.

Moreover, elderly persons were found to be victims of personal larceny at a rate of 19 per 1,000 as compared to a rate of 6 per 1,000 for 20-year-olds.

Many elderly people have the feeling that they must always remain at home in order to combat crime, or if they must go out, never to venture onto the city streets alone. The picture is a bleak one. Because they travel mostly by bus or subway, older people must wait for public transportation at designated points—and these points are well known to would-be assailants. Mail boxes in unguarded vestibules are the province of thieves who know when social security checks arrive.

In addition, let me note that no segment of our population is more directly affected by crime or the fear of crime. Senior citizens are all too often the victims of crimes while millions of others change their lifestyles in an effort to avoid being victimized by street criminals. It is time for us to attack this problem by developing, on the State and local level, comprehensive plans to effectively combat crimes against the elderly.

In developing the 1973 amendments to the Older Americans Act, Congress directed the State and local agencies on aging to coordinate their activities with other governmental units to maximize services to the elderly. *Towards a New Attitude on Aging*, the final report of the 1971 White House Conference on Aging recommended the establishment of "formal liaison between social service agencies and police departments so that the elderly victims of crime can obtain all necessary assistance."

On August 13, 1975, I chaired the Labor and Public Welfare Committee's Subcommittee on Aging hearings on "Crime and the Elderly." In part, I wanted to explore the degree of coordination which exists between local aging offices and police departments. Because of time limitations, the subcommittee was only able to hear testimony from police and aging officials from three Maryland subdivisions but we did find that coordination is most likely to occur when L.E.A.A. funds a project which involves in whole or in part an effort to combat crimes against the elderly.

During the August 13th hearing, I asked the Honorable Charles R. Work, Deputy Administrator of the Law Enforcement Assistance Administration the following question:

"Do you suggest or ask State or local law enforcement agencies to consult with State and or area agencies on aging in the formulation of their State

plans?" Mr. Work replied "we do not at the present time, Senator, require such a consultation. However, we encourage consultation with all levels of government and with all concerns in State and local governments in the formulation of those State plans." Mr. Chairman, I believe that one of the most significant by-products of the enactment of legislation such as S. 1875 is the tendency to encourage different departments and different agencies of our Federal, State, and local governments to exchange ideas and, in doing so, render services to our citizens in a more coordinated and comprehensive fashion. I would certainly expect that the Law Enforcement Assistance Administration would work closely with the Administration on Aging in the Department of Health, Education, and Welfare in implementing the provisions of S. 1875 should it be incorporated into law. I would similarly expect that both agencies would encourage their State and local counterparts to participate in an ongoing dialogue designed to maximize the crime prevention effort insofar as it relates to our Nation's 20 million senior citizens. I would certainly hope that the legislative history of S. 1875 would establish beyond any reasonable doubt that it was the intent of Congress that such consultation and coordination would take place on all levels of our government.

Mr. Chairman, the printed copies of the August 13th Subcommittee on Aging hearing may not be available for several months. I did, however, provide your subcommittee with a rough draft of this report which I hope will prove useful to the members and the staff of this subcommittee. I would like to cite briefly the testimony of Police Commissioner Donald D. Pomerleau of Baltimore City. Commissioner Pomerleau stated that the Law Enforcement Assistance Administration was originally designed to meet the urban law enforcement problems of the mid and late 1960's. He noted that efforts to combat urban crime have been productive. I asked the Commissioner whether there was a need to direct more Federal assistance to suburban areas. Citing the rapid rise in crime in suburban and rural areas, he stated that "their needs now differ—and that hasn't been recognized in sufficient time." On August 27, 1975, I wrote to Attorney General Levi urging him "to institute a complete review of the L.E.A.A. program to ascertain whether or not its mandate is adequate to meet the changing nature of the crime problem." Mr. Chairman, I ask unanimous consent that the text of my letter to Attorney General Levi be printed at the conclusion of my testimony. (Exhibit 1.)

Mr. Chairman, I would also ask unanimous consent that the text of my letter to F.B.I. Director Clarence M. Kelley on the manner in which data is collected on the victims of crime and the Director's reply to my correspondence be printed at the conclusion of my testimony. (Exhibit 2.)

In order to strengthen the linkage between this subcommittee's proceedings and the hearing conducted by the Subcommittee on Aging in order to write the legislative history of this bill in the most comprehensive manner I ask unanimous consent that the witness list of August 13th hearing be printed at the conclusion of my testimony. (Exhibit 3.)

In closing, let me stress once again that S. 1875 is a modest proposal that will not cost the taxpayers any additional money. By adding the following 8 words "and the prevention of crimes against the elderly" to Section 303(a) of the Omnibus Crime Control and Safe Streets Act of 1968 we can require law enforcement officials on the Federal, State, and local levels to focus on a very important problem confronting our Nation's twenty million senior citizens. The catalytic effect of such legislation would produce very desirable benefits for a deserving segment of our population.

Exhibit 1

U.S. SENATE,
Washington, D.C., August 27, 1975.

HON. EDWARD H. LEVI,
Attorney General, Department of Justice.
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: On August 13 I chaired field hearings of the Labor and Public Welfare Committee's Subcommittee on Aging on "Crime and the Elderly." Mr. Charles R. Work, Deputy Administrator of the Law Enforcement Assistance Administration participated in these hearings.

One of the witnesses, Police Commissioner Donald D. Pomerleau of Baltimore City, testified that L.E.A.A. was originally designed to meet the urban law enforcement problem of the mid and late 1960's. Citing the rapid rise in crime

in suburban and rural areas, the Commissioner noted that "their needs now differ—and that hasn't been recognized in sufficient time."

This field hearing convinced me that crime is a serious problem that must not be allowed to go on unchecked. The senior citizens who testified before our subcommittee made it clear that older persons can be victimized by crime in two ways; actual victims and those who dramatically change their life styles in an effort to avoid contact with criminal elements.

I would like to urge you to institute a complete review of the L.E.A.A. program to ascertain whether or not its mandate is adequate to meet the changing nature of the crime problem. If legislative changes are needed, you may be assured of my willingness to work with the appropriate committees to obtain prompt and favorable consideration.

With best wishes, I am
Sincerely yours,

J. GLENN BEALL, Jr.

Exhibit 2

U.S. SENATE,
Washington, D.C., August 27, 1975.

HON. CLARENCE M. KELLEY,
Director, Federal Bureau of Investigation,
Washington, D.C.

DEAR MR. DIRECTOR: On August 13 I chaired field hearings of the Labor and Public Welfare Committee's Subcommittee on Aging on "Crime and the Elderly." In preparing for this hearing I became aware of the fact that the F.B.I. collects most of its data on the person committing the crime rather than the victim. It was thus very difficult to get good hard information on the nature and extent of crimes against the elderly.

It is my understanding that, as Police Chief of Kansas City, you did compile data on the victims as well as the criminals. I would like to urge you to develop a similar system on the national level. If the F.B.I. would need legislative authority to achieve this objective I would be more than willing to work with the appropriate committees to obtain prompt and favorable consideration.

With best wishes, I am
Sincerely yours,

J. GLENN BEALL, Jr.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., September 9, 1975.

HON. J. GLENN BELL, JR.
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: I am in receipt of your letter dated August 27, 1975, concerning crimes against the elderly.

Your views on the difficulty in obtaining useable information relative to the nature and extent of crimes against the elderly are appreciated as I too share this concern.

I am pleased to advise that the FBI recently instituted a Crime Resistance Program wherein this Bureau is actively engaged with several local police departments in a pursuit to strengthen the overall law enforcement effort. "Crimes Against the Elderly" has been identified as a target area receiving special attention in this Program. In this regard, we are working directly with the Wilmington, Delaware, Police Department to obtain the required information for analysis and to formulate approaches or techniques to combat the problem.

On September 15, 1975, the Uniform Crime Records Committee of the International Association of Chiefs of Police will meet in Denver, Colorado. This Committee acts in an advisory capacity to the FBI's Uniform Crime Reporting (UCR) Program. The UCR Program currently collects information on offenses reported to law enforcement and some information on persons arrested. I have instructed my staff to present, as an agenda item at that meeting, the concept of collecting crime victim information within the scope of the UCR Program.

While I cannot speak for the Committee I am certain they will consider the feasibility of such data collection with a high degree of objectivity.

Sincerely yours,

CLARENCE M. KELLEY,
Director.

Exhibit 3

[Witness List]

HEARINGS ON "CRIME AND ELDERLY," LABOR AND PUBLIC WELFARE COMMITTEE, SUBCOMMITTEE ON AGING, SENATOR J. GLENN BEALL, JR., RANKING MINORITY MEMBER

Rolling Crest Junior High School, 6100 Sargent Road, West Hyattsville, Md.—
Wednesday, August 13, 1975.

Opening Statement—Senator J. Glenn Beall, Jr.

Honorable Charles R. Work, Deputy Administrator, Law Enforcement Assistance Administration.

Dale Bormuth, Vice Chairman, Maryland AARP/NRTA, Joint Legislative Committee.

Dr. Alvin J. T. Zumbrun, Criminologist, Maryland Crime Investigation Commission.

Panels—State and Local Police/Aging Officials; Moderator: Harry F. Walker, Deputy Director, Maryland Office on Aging.

A. BALTIMORE CITY

Gene Bartell, director, Baltimore City Area Agency on Aging.

Donald D. Pomerleau, commissioner, Baltimore City Police Department.

B. MONTGOMERY COUNTY

Donald L. Wassman, director, Montgomery Co. Area Agency on Aging.

Captain Richard R. Bowers, Montgomery Co. Police Department.

C. PRINCE GEORGE'S COUNTY

Magnum Pathik, director, P. G. Co. Area Agency on Aging.

Mrs. Bess Garcia, special assistant to the director, P. G. Co. Area Agency on Aging.

Lt. Col. Wayne M. Milligan, chief of operations, P. G. Co. Police Department.

Corp. David Eyre, Planning and Research Division, P. G. Co. Police Department.

Denny Husk, chief of police, City of Mount Rainier.

Charles J. Ross, assistant director, P. G. Co. Housing Authority.

Panel of Elderly Victims of Crime:

Mrs. Cornelia "Neal" Smith, Chairperson of the Tenants Club of Kaywood Garden Apartments.

Mrs. Mabel Winant.

Mrs. Evelyn Lemons.

Mrs. Mary Genella.

Senator BEALL. Thank you.

Of all the crime statistics, I think the ones that are particularly disconcerting are those that relate to senior citizens who are less able to resist becoming victims of crime. I think it is interesting to point out that elderly persons who recognize their own vulnerability to personal attack are more cautious and security conscious than other groups and therefore tend to expose themselves less frequently to risk situations.

A senior citizen can be the victim of a criminal act or they can so dramatically change their lives and lifestyle as to be virtually pris-

oners in their own homes. It is now time for us to attack this problem by developing comprehensive programs to combat crimes against the elderly.

On August 13 of this year I chaired the Labor and Public Welfare Committee's Subcommittee on Aging hearings, "Crime and the Elderly." We wanted, at that time, to explore the degree of coordination which exists between local aging officers and police departments.

During the August 13 hearing I ask the Honorable Charles R. Work the following question: Do you suggest or ask State or law enforcement agencies to consult with State or area agencies on the formation of State plans?

His answer:

We do not at the present time require such a consultation. However, we encouraged consultation with all concerns in the formulation of the state plan.

Mr. Chairman, I believe one of the most significant byproducts of the enactment of S. 1875 would be the tendency to encourage different departments and agencies of our Federal, State, and local governments to exchange ideas and, in doing so, render services to our citizens in a more coordinated and comprehensive fashion.

Mr. Chairman, in closing let me stress that S. 1875 is a modest proposal that will not cost the taxpayers any additional money. By adding the following eight words, "and the prevention of crime against the elderly" to section 303(a) of the Omnibus Crime Control and Safe Streets Act of 1968, we can require law enforcement officials to focus on an important problem confronting our Nation's 20 million senior citizens.

This would provide desirable benefits for a most deserving segment of our population. I think it is extremely unfortunate that senior citizens in our society are being victimized not only by having crimes committed against them personally but by being forced to lock themselves in their homes so they won't become the victim of a crime.

We had a panel of senior citizens come before us during our August hearings and testify to the fact when asked the question, "What do you do to protect yourself from crime?" They said, "we just don't go out."

I think we should do everything that we can in our society to make our streets safe for all our citizens. We must make sure that no one, particularly our senior citizens, have to lock themselves in their homes and apartments in order to protect their life and their property.

Thank you, Mr. Chairman.

Senator McCLELLAN. Thank you, Senator. Can you tell us how to do that?

Senator BEALL. One of the ways we can do it is to provide better coordination between local police authorities and local aging authorities. We can better identify the extent and nature of the problem and then require that the comprehensive State plans provide for action programs designed to protect senior citizens from crime.

Senator McCLELLAN. We agree with what you want to do. How do you do it?

Senator BEALL. We do it by enforcement of the laws we have on the books.

Senator McCLELLAN. That is the real answer. Thank you very much. We very much appreciate your taking the time to make this presentation today.

Senator BEALL. Thank you, Mr. Chairman.

Senator McCLELLAN. Senator Morgan?

STATEMENT OF HON. ROBERT MORGAN, U.S. SENATOR FROM THE STATE OF NORTH CAROLINA

Senator MORGAN. I have a prepared statement which I would ask the Chairman to accept for the record and permit me to comment extemporaneously very briefly on a few thoughts that I have.

Senator McCLELLAN. I ask to have your prepared statement inserted in the record at the conclusion of your remarks.

Senator MORGAN. Thank you, Mr. Chairman.

I for one think the LEAA program has done some good. Mr. Chairman, I became attorney general of my State the year this law came into effect, so I grew up with it.

As attorney general, we were intimately involved with it in North Carolina. In addition to that, Mr. Chairman, I also was chairman of the Committee on the Office of the Attorney General of the National Association of Attorneys General [NAAG]. I think under that program we carried on an extremely effective research program of assistance to law enforcement officers across the National and to attorneys general with LEAA funds.

In North Carolina we took some of this money and created a criminal justice training academy, which this year so far has offered extensive training to more than 5,000 law enforcement officers.

We spent a great deal on upgrading law enforcement and there is no doubt that the overall effect has been beneficial to the criminal justice community in my State.

Mr. Chairman, I agree with you and I agree with Senator Kennedy that a great deal of this money has been wasted by mismanagement and improper administration. Both of you in your preliminary remarks touched on this problem very effectively.

Senator McCLELLAN. May I interrupt you there? Has this been due to faulty planning by the State planning agencies?

Senator MORGAN. Yes, sir; to a large degree. But we have found a great deal of difficulty with the administration of the program here in Washington because of the vagueness of their directions and the constant changes in the priorities without notice.

One of the biggest problems the State attorneys general have is handling prisoner litigation. Recently the LEAA here in Washington terminated a grant which had been very helpful to them, saying that they had changed their priorities. Well the attorneys general didn't know that and in their opinion this project is still a top priority. But the State planning agency, Mr. Chairman, is also the source of great difficulty. The law itself says that the agency and the funds shall be administered by a State planning agency created or designated by the chief executive of the State and under his direction and supervision.

Senator McCLELLAN. It is under the Governor.

Senator MORGAN. Let me tell you what happened in North Carolina.

In 1969, I came into the office and so did my Governor, Walter W. Scott, who was a Democrat. I say that to show it is a nonpartisan situation. The Governor had time to attend only a very few meetings of the State planning agency. The vice chairman usually presided. Therefore it did not have the prestige that a planning agency should have had, had it had a permanent chairman. In addition to that, when we started to reorganize our State government, they did not know where to put the SPA.

They just could not find a place. So we finally put it in the division of the department of conservation and development that handled economic development and tourism. What it had to do with it and where the expertise lay, I don't know. And the program received no support or direction.

Senator McCLELLAN. How can Congress be blamed for that?

Senator MORGAN. I think we ought to change the law requiring that the program be under the control of the Governor and permit the State legislatures to decide where the planning agency should be placed to insure efficient administration.

Senator McCLELLAN. Our Governors are going to oppose that.

Senator MORGAN. I am sure they will, but I still think this Senate committee should evaluate the merits of this proposal. Our present Governor in North Carolina, James Holshouser, is a Republican, but he and I stood on the same platform before the North Carolina Police Executives Association in 1972 and advocated this change because we both understood what had happened in North Carolina.

We saw what happened in North Carolina under the Democratic administration and knew this would continue to be the situation regardless of what party the Governor belonged to.

The chiefs of police and the sheriffs all across the State, and the various criminal justice agencies all found their programs being evaluated by people who had absolutely no experience and no expertise.

Recently there has been a constant turnover in SPA staff personnel in North Carolina. What we need to do is let the legislature decide where and how the planning agency should be set up. I don't say that it must be placed under the attorney general in every State but I note that in one State the Governor did not like the attorney general so he did not even put him on the State planning agency.

He had no input at all. The Governor of North Carolina, the present Republican Governor, and I both went to the general assembly in 1973 with a plan to create a more effective planning agency but we were told then by LEAA officials that if we did, we would not be complying with this law and North Carolina would lose all its funds.

All I am asking, Mr. Chairman, is that the Congress delegate to the State legislature, the people most responsive to the voters of the State, the authority to decide how the agency can best be administered.

Senator McCLELLAN. The legislature could not administer it. They would have to set up some agency to administer it.

Senator MORGAN: Yes, sir, but in doing that, the Governor could have his input as well as the various other officials of the State. And hopefully in establishing the SPA the legislature could be a little more responsive to local situations.

As it now is, we don't have much local input from the county sheriffs and the cities because of the way it is being administered at the State level under the Governor's supervision. It is natural after you have been in office a year or two and you have forgotten how it is to go out in the counties and campaign, you begin to think of everything in terms of the State government.

By letting the legislature decide to establish a planning agency, perhaps we could eliminate some of this very real problem.

Senator McCLELLAN. Senator, you would suggest a change in the original act that provides for the setting up of State planning agencies?

Senator MORGAN. Yes, sir.

Senator McCLELLAN. To whom would you confer the authority that is now conferred upon that agency?

Senator MORGAN. The State legislatures should enact a bill setting up a planning agency and designating by what State official it should be administered. We might want to provide some guidelines that the SPA should include representatives from various groups including all those who are involved in the criminal justice system as well as some who are not involved to make sure that it is a well balanced committee. I believe the present law has a provision to that effect.

Senator McCLELLAN. On the Federal level we could only require that a State set up an agency composed of certain elements of representation that the Senator refers to. Then it would be up to the legislature of the State to enact a law to carry out a particular State's proposal.

Senator MORGAN. Yes, sir, I would be satisfied, Mr. Chairman, if we made it permissive, and that is the way my bill is drafted. In other words, is a State is satisfied with things as they are now then the legislature would not be required to remove it from the Governor's jurisdiction. I would prefer it the other way.

But in North Carolina, Mr. Chairman, I note that both the Governor and the legislature indicated at one time or the other they felt a change would be advantageous.

Senator McCLELLAN. How long were you attorney general?

Senator MORGAN. Six years.

Senator McCLELLAN. Well then, you were attorney general practically all of the life of this act, this program?

Senator MORGAN. Yes, sir.

Senator McCLELLAN. You have had the opportunity to observe how it was administered and the effects and so forth. You were close to it and you are in a position to give us some evaluation of LEAA and its functions. Would you say that it has contributed anything toward law enforcement or has it been a complete flop?

Senator MORGAN. Mr. Chairman, I would say that it has made some very real and substantial contributions to the improvement of law enforcement and the criminal justice system. But I would hasten to point out that there have been some tremendous areas of waste.

But, any kind of crash program that was set up as this one was is going to involve waste. I would agree with the chairman and Senator Kennedy that I do not think now that it has been in existence long enough that these kinks ought to have been ironed out and that because they haven't, it requires a complete reexamination.

In all honesty, I do not believe I would ever have been able to persuade my legislature to create a criminal justice academy had I not had access to LEAA funds. Mr. Chairman, when I became attorney general of my State, the barber who cuts hair in the barber shop was required to have considerable formal training plus something like 1,800 hours of experience before becoming a barber, but the law enforcement officer who wears a gun and a badge was not even required to be able to read and write.

Believe me, Mr. Chairman, there were some in my State and all across the Nation who could do little more than that. But, because of these funds, we were able to start the criminal justice academy. And I promise you it is going to be one of the best in the country.

We were able to set up some mandatory minimum standards. Now law enforcement officers have to have a high school education, have to complete so many hours of training and so on.

There was a time, Mr. Chairman, when I first became a lawyer when maybe it was not as important for a law enforcement officer to have training. But all of these Supreme Court decisions now have made it mandatory, in my opinion, that law enforcement officers understand what they can and cannot do in enforcing the law. To sum up, even considering all of the waste of this program, I would have to commend it as a very, very worthwhile program.

Senator McCLELLAN. You think the program should be continued, that LEAA should be extended for another period of time and that an evaluation should be made and such corrections as Congress determines can improve it should be made, but you don't think the program should be abolished?

Senator MORGAN. That is exactly my feeling.

Senator McCLELLAN. Any implication that the program has been a failure or that it has not contributed anything to reducing crime you think is in error?

Senator MORGAN. Yes, sir I do, Mr. Chairman. It is easy to say crime has continued to increase, but we should consider that it might have increased a whole lot more had the program not been in existence.

Senator McCLELLAN. There is no way to determine that, but you feel that something really good has been accomplished by the program, although it has some trouble?

Senator MORGAN. Yes, sir.

Senator McCLELLAN. Senator Morgan, thank you very much. We will review your statement that you submitted for the record.

This is a method of letting the Congress examine LEAA as this committee develops all the facts that we can, and receive comments and recommendations with respect to how the program may be improved and extended for another period of time.

There is something else we have got to take into account. We need to make certain we are getting value received for the expenditures made because the old meal barrel is getting pretty low.

We are going in debt about \$65 or \$70 billion a year. It is time to also examine our fiscal strength and the need to conserve it.

Thank you very much, Senator Morgan. We appreciate your testimony here today.

Senator MORGAN. Thank you very much, Mr. Chairman.

Now I will leave you in the hands of a pre-LEAA attorney general.

Senator McCLELLAN. Thank you.

[The document referred to follows:]

TESTIMONY BY SENATOR ROBERT MORGAN

I appreciate very much the opportunity to appear before you this morning and to make a few comments concerning the future of the LEAA program and to particularly urge the approval of S. 1598 which I believe would provide the State legislatures with the flexibility they need to cope with problems of administering this program throughout the country.

I do believe that the LEAA program is in trouble and consequently I hope that this Subcommittee will go deeply into the current policies and "priorities" of LEAA at the national level, ask for explanations concerning the turmoil which exists in almost every state program as I understand it, and seek answers to the expressions of concern and even disgust which are emanating from local communities across America.

Why do I conclude that the program is in trouble? There are many reasons including the fact that I served several years as Vice-chairman of the State Planning Agency Board in my State and saw the problems evolve first hand. But there are more recent indications that something is drastically wrong.

Yesterday a top official in the criminal justice community in my State who has benefited immeasurably from the LEAA program came by my office to ask in complete frustration, "What can you do to keep them from throwing away fourteen million dollars in North Carolina. You know I'm a taxpayer, too."

I had a letter from a sheriff a few days ago who complained that he had effectively been eliminated from any opportunity to help guide the program in his area noting that he no longer "shared those funds in a fair and equitable manner."

Local criminal justice planners from my State came up to see me in force recently to express their deep concern about the failure of the State planning staff to recognize local priorities and requests and the move toward centralizing the planning process at the State level.

And just recently, I contacted LEAA officials here in Washington myself to plead for continuation of funding to the National Association of Attorneys General for a very successful project related to prisoner litigation. It was arbitrarily terminated because in the words of the official there, "It no longer is a priority." However, I note that in a recent newsletter LEAA officials here were making quite a do over a new grant to study shoe design for law enforcement officers, a matter which I would think the free enterprise system could handle easily without LEAA or any other federal program. So you have to wonder exactly what present "priorities" are.

I don't think my former colleagues in the National Association of Attorneys General understand what they are. I don't think the folks back home in North Carolina know what they are, and I can assure you I don't know what they are. This is a tragedy because the program has done much good.

As Vice-Chairman of my State committee, I saw the great value of LEAA block grant funds in establishing a criminal justice training academy, improving the capabilities of police and sheriffs' departments, setting up a police information network and, generally, upgrading all components of law enforcement. There were many well-conceived and well-executed projects that will have a lasting effect on the quality of justice in our state. But in my work with Law and Order, I was also made aware of the problems and waste caused by inept administration, a lack of creative leadership, and a failure to properly evaluate projects either before or after funding.

For almost as long a period, I served as Vice Chairman and then Chairman of the standing committee of the National Association of Attorneys General that oversees the Association's staff. I saw the value of LEAA discretionary funds in enabling NAAG to develop a research capability, hold training seminars, and operate a clearinghouse to exchange information.

This has helped the individual Attorneys General do a better job at relatively little cost. But I was also aware of the frustrations resulting from apparently arbitrary decisions as to what would or would not be funded; the problems created by administrative red tape, and the failure to evaluate the programs realistically.

These kinds of difficulties are not easily solved and will require the continuing attention of the Congress, the criminal justice community, and the public. We must look more closely at LEAA's performance in developing guidelines and setting priorities, to assure that these reflect a realistic assessment of needs and probable benefits at the local level.

The President's Commission on Law Enforcement and the Administration of Justice said in 1967 that "the greatest need is the need to know." This is still true: we don't know what causes crime or how to correct it, and we need a realistic research program to find the answer. LEAA must also be encouraged to undertake viable evaluation of projects in order to learn what works and what doesn't. Better provision must be made for dissemination of information and for technology transfer, to ensure the widest possible benefit from expenditures. I agree that more funds should be directed toward the courts system, which is one area of the criminal justice system where we have a fairly good idea of what needs to be done and how to do it.

There are some of the areas that demand attention. In another area, that of administration, I have a specific suggestion to offer.

I have proposed an amendment to the Safe Streets Act that I believe would free the states to work toward better administration. The bill, S. 1598, would allow a state legislature to make its own decision as to who in the State could best run the program and allow it to transfer the state's criminal justice planning agency to the Attorney General or to any other constitutional officer of the State. Present law requires that the state planning agency must be designated by the Governor and subject to his jurisdiction.

This proposed change is slight but significant. It is in keeping with the whole thrust of the Safe Streets Act, which is to help states solve their own problems in their own way. The Act's stated purpose is to "encourage states . . . to prepare and adopt comprehensive plans based upon their evaluation of State and local problems of law enforcement." The authority to formulate their own plans should be accompanied by the authority to determine how best to administer them.

The Safe Streets Act gives virtually unlimited authority to the states. Under the block grant approach, they have a broad mandate to create planning mechanisms, design programs, and control the distribution of funds. Those of us who are committed to restoring balance to the federal system view the block grant as a promising development in federal-state relationships. It minimizes restrictive and costly bureaucratic controls and enables the states to work out their own ways of meeting problems. I urge you today to eliminate strings, not attach more.

I am not contending that each state's planning agency should necessarily be under the Attorney General; this is a decision that should be made by the State. This would, however, seem an appropriate assignment of responsibility in many states. It is a logical outgrowth of the Attorney General's historic role as the state's chief law officer and as the people's advocate.

In one of the states where the Attorney General is appointed, the Governor has recognized this logical relationship by placing the SPA under the Attorney General. This certainly is a more sensible location than in North Carolina, where the Law and Order Committee is assigned administratively to the Department of Natural and Economic Resources which also incidentally contains Marine Fisheries, Wildlife Resources, Economic Development and the North Carolina Zoo.

We must remove the legal obstacle that prevents state legislatures from weighing organizational, administrative, and political factors and selecting the most appropriate agency in state government to administer the block grant programs.

The present provision that state administration of the Act be vested in the Governor, rather than left to discretion of the legislature, is contrary to the block grant concept. This is a policy question to be settled by each state's legislature, which is elected by the people for the express purpose of resolving such questions. It is not a matter to be decided in Washington, in my opinion, and that's why I have introduced S. 1598 and today urge you give it a favorable report.

Senator McCLELLAN. Senator Eagleton, we welcome you before the committee today.

STATEMENT OF HON. THOMAS F. EAGLETON, U.S. SENATOR FROM
THE STATE OF MISSOURI

Senator EAGLETON. I once served as attorney general of my State, I guess it was in the prehistoric days of 1960 to 1964.

Old attorney generals never die, they just fade. I ask unanimous consent that the full text of my statement be placed in the record as though read.

Senator McCLELLAN. It will be placed in the record in full at the conclusion of your statement, Senator Eagleton.

Senator EAGLETON. Having served as district attorney of St. Louis and attorney general of Missouri, I have an interest in the question of criminal justice and law enforcement. I served along with you on the Senate Appropriations Committee. From that vantage point I have been examining the extent of the Federal Government's commitment to reducing crime and the results achieved.

Since the LEAA program was begun in 1969 about \$4.1 billion has been appropriated for this purpose. With the exception of very small amounts for LEAA administrative costs, the bulk of this money has been funneled to States and local communities with very few Federal strings attached in order to assist them in dealing with crime problems.

Thus it can be reasonably asked what has been accomplished through these expenditures. I think the answer has to be that we simply do not know. Certainly there is no evidence of any reduction in crime rates.

The latest figures show a 13-percent increase in the first 6 months of this year. But as your concluding exchange with Senator Morgan pointed out, we don't know how much crime would have increased beyond that 13 percent had it not been for LEAA.

Among other criticisms, the GAO found that no standards or goals have been established by LEAA that would make possible an evaluation of the degree of success or failure in the projects that were studied.

Thus I think it is fair to say that over the last 7 years LEAA has more or less uncritically expended money to the States without any meaningful effort to determine the value of the programs. Efforts are underway to enhance evaluation of the LEAA funded projects at least partly in response to provisions in your legislation.

Even at that, Mr. Chairman, LEAA funds are difused through so many levels of government and funneled into so many different projects that I seriously question whether any evaluation of the agency's overall accomplishments can really ever be made.

I make these points, Mr. Chairman, so as to distinguish the proposals embodied in my bill, S. 1601, from anything contained in the current LEAA legislation.

My bill is founded on two basic premises. The first is that the criminal justice system must be viewed in its entirety. A police force with an excellent record of apprehending offenders, may have its efforts undercut if there are long delays in bringing criminals to trial.

A criminal justice system that tries people quickly is undercut by lax probation officers. Thus I am convinced, Mr. Chairman, that it is

critically important that the problems of criminal justice be addressed in a systematic fashion with a variety of systematic improvements embodied of the kind in my bill.

My second premise is that I might be wrong. There is no assurance that my prescription of the Nation's crime problems is the right one. It could be that this will not reduce crime. But my proposal has the virtue of permitting experiment through limited demonstration projects in environments where results can be closely monitored as compared to the expenditure of the last years without any evidence of improvement.

My bill authorizes LEAA to make grants to States and localities which elect to participate on a voluntary basis for the purpose of demonstrating the feasibility and the effectiveness of comprehensive reforms.

Initially grants would be limited to a few States and localities as private programs. I will not attempt to enumerate all standards but they cover such things as recruitment, training and pay and benefits of law enforcement personnel, extension of probation and parole services, aspects of correctional facilities, local jails, State institutions, the juvenile offenders, treatment of narcotics offenders, and alcoholism.

Each State would be free to devise the most suitable way for it to meet the goals set out in the bill without Federal dictation in each step along the way. Mr. Chairman, I don't suggest that my bill is the final answer to the problems of fighting crime.

All of us know that these problems are too many and too complex to admit to any package solution. I think my bill provides a starting point. Neither do I expect this bill or any other bill to reach human nature, and reform it.

First we can improve law enforcement agencies so that more offenders are brought into the criminal justice system. I think we also know that the entire system can be improved so that punishment will have greater meaning as a deterrent and incarceration will more nearly operate to rehabilitate.

For too long government has acted as though increasing rate of crime is an inevitable fact of modern life even though it has exceeded the rate at which our society has become urbanized and has gone beyond the limits of our citizens' tolerance. Continued rising crime need not be inevitable if we are willing to commit against it our talent, our means, and our determination.

Thank you, Mr. Chairman.

Senator McCLELLAN. Senator Eagleton, do you agree that this act should be continued and not permitted to expire, that we need this kind of an agency?

Senator EAGLETON. I think in the broad parameters, Mr. Chairman, I would answer yes, that there should be Federal assistance, through an agency, whatever you would wish to call it, to give assistance to the States and to local areas so far as law enforcement is concerned.

I would restructure at least part of that \$4 billion. I would divert part of what is going to the State of Missouri through its law enforcement council on the State level and thus is funneled down to local areas, I would like to see more demonstration projects wherein a total

approach was considered to law enforcement, that is from arrest to parole than is now the case.

It is very much piecemeal. Some of the money that comes in, some of it may go to St. Louis for a computer, some may go to another place for a training program for their police, some may go to another place to build a new jail.

I would like to see a State, a small State like Nebraska or Delaware—Delaware has a rural area around a city—I would like to see what can be done to improve the entire gamut of law enforcement in a State like Delaware.

Nebraska is another State. The attorney general of Nebraska said that Nebraska would be an interesting demonstration place.

Senator McCLELLAN. There are some critics who intimate that since LEAA has not reduced crime—I don't know whether you would actually be able to measure this result of the agency—and therefore it is no good.

If you accept that argument, then you would have to say that notwithstanding the increased appropriations in the Justice Department all these years, increased number of new courts, magistrates to aid them, and all of these things that we have done, the crime rate still goes up so the Department of Justice is not doing a good job.

LEAA is not to blame for the rise in crime. It may not have accomplished as much as we anticipated and hoped that it would but I just can't believe that this agency should be scrapped. It should be revised, strengthened, given better direction and we need to help it in its administration.

It has been an experiment. I don't know that that implies that we should increase the funding. Maybe we should hold the funding down until we get the program on the right track and know that it can be executed and be made effective.

I think this Agency has done some good. I think it has helped States in many ways, helped in training, helped in various ways in supplying equipment in many instances.

It has helped build houses of corrections. I think it has made a contribution. But to say this Agency should within itself reduce crime, I think is expecting too much of it. The reduction of crime, if it is going to be assessed on the basis of law enforcement and what we do or don't do, then all agencies have a responsibility—not only Federal agencies but State agencies having a responsibility for enforcing the law have to share some of the blame for any failure.

I think sometimes indifferent attitudes of the public contribute to crime and lack of enforcement of laws as well. People witness crimes and we can't get them to come in and testify as witnesses. So it is not all the responsibility of government and law enforcement officials.

Some responsibility still rests on the citizens for their cooperation, too, in the enforcement of the law.

Senator EAGLETON. Mr. Chairman, I subscribe to your comments to say that any one bill or agency will eradicate or substantially reduce crime is to set an unrealistic goal. I think part of the problem of our age, Mr. Chairman—I am not accusing you of this—I think some in the body politic have raised the expectations to unrealistic levels. Former President Johnson instituted a war on poverty and he was going to eradicate poverty.

Senator McCLELLAN. That was a good public relations statement.

Senator EAGLETON. President Nixon declared war on crime. He was going to bring in a new attorney general and he was going to get crime under control and he raised expectations as to what could be accomplished in the law enforcement area. As we know, the crime rate increased under Mitchell and outstripped that increase under Ramsey Clark. Sometimes we promise so much that we raise expectations to a level that can be never attained.

Senator McCLELLAN. Thank you, Senator.

Senator Hruska?

Senator HRUSKA. Thank you, Mr. Chairman. The experience and the record of the testifying Senator in this field is well known. Of course it does go over a great number of years. We appreciate your coming here; Senator Eagleton, to favor us with your views.

I was gratified to see your reference to the report of the National Advisory Commission on Criminal Justice Standards and Goals. There is one thought that occurs to me in that regard, however. The thrust of that entire report—and some 2,000 people who were delegated to draft it after vast hearings and many discussions and executive sessions—was that there was set out standards and goals that would be referred to by the States for their own selection and their own application.

The report set out these things by way of a guide, by way of something that the States could turn to each in its own wisdom, to select those parts which they thought would fit their State needs.

That is why I did not quite understand your language in the next to the last paragraph on page 4 where you say the bill does not contemplate detailed directions from Washington as to how each State must improve its system. Rather it establishes a number of goals and standards which participating States must undertake to meet.

Just how much compulsion is here in your bill that will be visited upon the States?

Senator EAGLETON. My hope—and it may need some redrafting—my hope was to have little or no compulsion at all. We hoped to spell out certain standards, goals, objectives that we would like to see achieved, but leave to each jurisdiction, be it a State or a county, leave the nitty-gritty of implementation as to how they will achieve those goals in their wisdom.

Conditions in Delaware and customs in Delaware may be one thing, Los Angeles another thing. I don't think there should be defined in Washington one mechanism foisted on every jurisdiction in this country. The jurisdictions vary, the problems vary, and the customs vary.

Senator HRUSKA. Well, we are mindful that Congress further finds in the present statute that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively. Do we want to say the local governments must do what we the Congress tells them in certain respects?

Who is going to be in charge of the program if that is the thrust of your bill?

Senator EAGLETON. Well—

Senator HRUSKA. Who is going to be enforcing it?

Senator EAGLETON. I agree with your statement that crime is a local problem and has to be handled on a local level. The present LEAA

program is at least a partial solution on local levels. It is not a general revenue sharing program.

The bill was not written "we hereby appropriate billions of dollars as a general revenue sharing proposition to go to every city or county." Senator McClellan drafted the bill and others worked with him and they set up a program whereby Federal money could go to States under certain conditions.

That State is not free to spend it for a police chiefs' convention. They are not free to take the money and to make as part of the parole and probation that people will go to Miami Beach, Fla., for parole.

In the bill you are considering now, there are constraints and limitations.

Senator HRUSKA. The present statute does require and there have developed comprehensive plans in the field of law enforcement and criminal justice in every one of the 50 States. This has never been done before. This is a comprehensive plan. The terms of the law do say what comprehensive means and it takes into account all facets of law enforcement all the way from the apprehension of the criminal to his rehabilitation or his incarceration.

As soon as the Federal Government would undertake to say you must pass a statute providing for speedier trials within 60 days, that would be the opening of Pandora's box because if that can be done from Washington, wouldn't it necessarily follow that if they did not do that, they would not be within the plan and they would get no money?

Senator EAGLETON. Pandora's box has already been opened, Senator Hruska. It has been opened with that 15 percent that the Federal Government holds back for discretionary grants.

If the State of Missouri plays ball with Washington, it will get some of that 15 percent. If it does not, it gets nothing. It is not direct compulsion, it is indirect intimidation.

You said all 50 States for the first time now have these comprehensive plans and isn't that wonderful. It is wonderful in print only, Senator Hruska. There is a great cleavage between a plan and an implementation of a plan. I dare say in Jefferson City, Mo., my capital, buried in some vault, is a comprehensive criminal justice plan gathering dust with dozens of other reports in that vault.

Some nice people wrote it, and they were going to restructure all of Missouri's criminal justice and there it is gathering dust. I can tell you firsthand that so far as new technologies in law enforcement, there are darn few that have been implemented in Missouri.

Yes, a few computers have been bought. A few other pieces of equipment, a new jail or two has been constructed. But by and large, it is business as usual.

Senator HRUSKA. Well, in regard to being a compulsion on the States under the present law, I have to differ with you that. Each has to determine its own priorities in the comprehensive plans that they submitted and they should be allowed to name their own priorities.

Senator EAGLETON. But—

Senator HRUSKA. We cannot disregard the courts or the detention centers or the prosecutorial staff. But it does not say 2 percent shall be for the courts, 18 percent for something else.

That is for the State to decide. There is no compulsion. They don't have to accept the funds if they don't want to. The funds in this bill that go to the States for law enforcement purposes constitute in the neighborhood and in the range of 5 percent of all the money spent within the United States for criminal justice and law enforcement purposes.

With reference to plans gathering dust, I don't know where they would gather dust under the statute we now have which says there must be an annual updating of their comprehensive plan and a report thereon.

Congress can determine whether they are following the spirit—not any letter, not any blueprint—of the law. Are they following the spirit of this type of revenue sharing? There are some people who believe they are doing it and they are doing the best they can.

Senator EAGLETON. Well, that being the case, and if these annual reviews and updatings of these plans have to have any meaning, you are admitting that under the present law there is secondary compulsion. If they don't update their plans and if they don't come in according to Hoyle, by the mere fact of the updating, you have some back door compulsion.

It is my understanding—I don't recall all of the facts with great certainty—but it seems to me that the moneys going to the State of Alabama a few years ago, that there was considerable concern as to whether they were going to be mismanaged and misused.

There were efforts to keep Alabama from mispending Federal moneys. There was some degree of Federal control.

Senator HRUSKA. Maybe we ought to make a law to make it illegal to spend money improperly.

Would that help?

Senator EAGLETON. We have got a lot of laws like that already.

Senator HRUSKA. There was some misuse of LEAA funds early in the program. It was detected, punished, and proper steps were taken to correct it. That is the best we can do. We cannot legislate morality and legality on the part of individuals. That is why we have bonding companies, for example.

Senator EAGLETON. I think that Federal moneys when they are sent in large amounts to States, that there is a Federal interest in seeing that that money is providently spent within the realm of the law.

I think there is a Federal nexus.

Senator HRUSKA. We do come to a point where we have to consider the degree of oversight. The language of your bill says a State will implement such reforms as will insure a trial within 6 weeks. That is a categorical grant. That is not a revenue-sharing grant.

They must do a certain thing and if they don't then they are out of the plan.

Senator EAGLETON. We can amend that to attempt to assure that result.

Senator HRUSKA. That is already spelled out in here in the present law. It is in here.

Senator EAGLETON. All I am suggesting is that instead of these monies being distributed in a hodgepodge way, I would like to see an

area wherein there was a systematic approach in trying to upgrade law enforcement from its very beginning stages to its ending stages and that in one area it does not go to police, another area courts, another area jails.

Senator HRUSKA. I assure you we will consider your views, having in mind your experience and your observation on this particular bill. We are grateful to you for coming.

Senator McCLELLAN. Thank you very much, Senator.

Our next witness will be the Attorney General. I believe he will be here in just a few moments.

We will take a brief recess to await his arrival.

[Brief recess.]

[The document referred to follows:]

[News release for immediate release]

EAGLETON TESTIFIES ON CRIME BILL

Senator Thomas F. Eagleton (D-Mo.) testified today on his Criminal Justice Reform Act before the Criminal Law Subcommittee of the Senate Judiciary Committee.

The Eagleton bill would authorize the Law Enforcement Assistance Administration to make grants to volunteering states and localities to bring about comprehensive reform of their criminal justice systems—from police through prosecution, the courts, prison and parole.

TESTIMONY OF SENATOR THOMAS F. EAGLETON (D-Mo.)

Thank you, Mr. Chairman and members of the Subcommittee, for inviting me to appear before you today to discuss with you some of my thoughts regarding crime problems in this country.

My concern for these problems stems from two sources.

One is my background. In every public office I have held prior to coming to the Senate, matters relating to the criminal justice system have been a major responsibility. As the chief prosecuting official of a large city (St. Louis), as Attorney General of Missouri, and even as Lieutenant Governor when I served as chairman of the Governor's Crime Commission, I dealt with these matters on a regular basis.

Secondly, with the possible exception of economic problems, I know no other domestic issue that so troubles our people. Polls confirm my belief that most people rate crime as among the problems that should be given top priority by government at all levels. More important to me, I hear from my constituents as I travel through Missouri and as I read their letters that they want something done about crime.

"If government cannot protect us in the streets and in our homes against assault, and robbery, and rape, and murder," they ask "then of what value are the other accomplishments of the government here, or abroad, or in space."

More recently, another dimension has been added to my interest in criminal justice. As you know, Mr. Chairman, I serve along with you on the Senate Appropriations Committee. From that vantage point, I have been examining the extent of the federal government's commitment to reducing crime and the results achieved.

Since the Law Enforcement Assistance Administration program was begun in 1969, about \$4.1 billion has been appropriated for this purpose. With the exception of very small amounts for LEAA administrative costs, all of this money has been funneled to states and to local communities—with very few federal strings attached—in order to assist them in dealing with crime problems.

It can reasonably be asked: What has been accomplished through these expenditures? I think the answer has to be that we simply do not know.

Certainly, there is no evidence of any reduction in crime rates. The latest FBI figures show a 13% increase in the first six months of this year.

The General Accounting Office has scrutinized several aspects of the LEAA program in the last several years. Among other criticisms, the GAO found that no standards or goals have been established by LEAA that would make possible an evaluation of the degrees of success or failure in the projects that were studied. I think it is fair to say that, over the last six years, LEAA has more or less uncritically dispensed more than \$4 billion to the states, without any serious effort to determine the value of the programs established through these expenditures.

Efforts are apparently under way to enhance evaluation of LEAA funded projects, at least partly in response to provisions in your legislation that was enacted as the "Crime Control Act of 1973." Even at that, LEAA funds are diffused through so many levels of government and funnelled into so many different projects that I seriously question whether any evaluation of the agency's overall accomplishments can ever be made.

I make these points, Mr. Chairman, so as to distinguish the proposals embodied in my bill, S. 1601, from anything that is contained in the current LEAA legislation.

My bill is founded on two premises. The first is that the criminal justice system must be viewed in its entirety, and if any one part malfunctions the effectiveness of the whole is impaired. A police force with an excellent record at apprehending offenders may have its efforts undercut if there are long delays in bringing defendants to trial. A criminal court system that disposes of cases quickly and fairly is handicapped if it lacks an adequate probation staff, or if it has no alternatives in sentencing other than confining individuals in conventional institutions that are traditional breeding places of crime.

Thus, I am convinced that it is critically important that problems in the administration of criminal justice be addressed in a systemic fashion with a variety of specific improvements of the kind embodied in my bill.

The second premise for my bill is that I might be wrong. There is no assurance that my particular prescription for the nation's crime problems—or anyone else's prescription, for that matter—is a right one. It may be that the investment that I recommend be made to improve all aspects of the criminal justice system will not result in reducing crime any more than current efforts have. But my proposal has the virtue of permitting experimentation through limited demonstration projects in environments where results can be closely monitored, as compared to the massive expenditures of the last six years without any significant evidence of improvement.

Under present law, demonstration projects are authorized to be carried out by the National Institute of Law Enforcement and Criminal Justice, with only a small fraction of the LEAA budget available for this purpose.

The bill authorizes LEAA to make grants to states and localities which elect to participate, on a strictly voluntary basis, for the purpose of demonstrating the feasibility and—I trust—effectiveness of comprehensive reform. Initially, grants would be limited to a few states and localities as pilot programs, with the hope that these will point the way toward implementing the program nationally.

As can be seen from Section 4, the bill contemplates a limitation on the number of states and localities that may participate in the program. No effort has been made to fix such a limitation precisely since that determination must be made in connection with the Committee's decisions as to the allocation of available federal resources in the criminal justice area. Probably the program should be limited to no more than two or three states and a similar number of local governments, or combinations thereof, at the outset.

These same reasons apply with respect to the authorization of appropriations. Because it is impossible at this time to determine the number of states or localities that might participate and the degree of participation by each, a proper level of appropriations cannot be established. Again, I suggest that this be determined by the Committee in the process of allocating resources.

The bill does not contemplate detailed directions from Washington as to how each state must improve its system. Rather it establishes a number of goals and standards which participating states must undertake to meet—each through its own methods, each in the light of local conditions.

These goals and standards—which encompass the entire criminal justice system—are drawn from a variety of sources, including President Johnson's Crime Commission, Chief Justice Burger's recommendations regarding the speedy disposition of criminal cases and the report of the National Advisory Commission on Criminal Justice Standards and Goals.

I will not attempt to enumerate all of the standards contained in this bill but they cover such things as the recruitment, training, pay and retirement benefits of law enforcement personnel—criminal court operations, including the mandatory disposition of criminal cases within a fixed period after arrest, the extension of probation and parole services, correctional facilities, from local jails to state institutions, juvenile offenders, treatment of narcotics addiction, and alcoholism. For the most part, these are performance standards—that is, each state would be free to devise the most suitable way for it to meet the goals set out in the bill without federal dictation at each step along the way, so long as these goals are being attained.

I do not suggest, Mr. Chairman, that my bill is the final answer to the problems of fighting crime. We all know that those problems are too many and too complex to admit of a "single package" solution, but my bill does provide a starting point.

Neither do I expect this bill—or any other bill—to reform human nature. Yet there are two things that we know can be done; and we know how to do them: first, law enforcement agencies can be improved so that more offenders are apprehended and brought into the criminal justice system; and, second, the entire system can be improved so that punishment will have greater meaning as a deterrent and incarceration will more nearly operate to rehabilitate.

For too long, government at all levels has acted as though an ever-increasing rate of crime is an inevitable fact of modern life—even though the rate of increase has been greater than population growth—has exceeded the rate at which our society has become urbanized—and has gone beyond the limits of our citizens' tolerance.

We have it within our power to reverse the upward trend in crime. Continued rising crime need not be an "inevitable" fact of life in this decade if we are willing to commit against it our talent, our means, and our determination.

**STATEMENT OF HON. EDWARD H. LEVI, THE ATTORNEY GENERAL
OF THE UNITED STATES; ACCOMPANIED BY RICHARD W. VELDE,
ADMINISTRATOR, LAW ENFORCEMENT ADMINISTRATION**

Senator McCLELLAN. Mr. Levi, we welcome you this morning. We appreciate your coming to give us your views on the bills introduced for the Senate's consideration to possibly revise the existing law and extending LEAA for another period of time.

Do you wish Mr. Velde, the Administrator of LEAA to join you at the table? Thank you; you may proceed. You have a prepared statement I see.

The ATTORNEY GENERAL. Mr. Chairman, I wish to thank you and the members of the committee for the opportunity to—

Senator McCLELLAN. Unfortunately, these mikes are not working so you may have to talk a little louder.

The ATTORNEY GENERAL. Mr. Chairman, I wish to thank you and the members of the committee for the opportunity to testify on S. 2212, the administration bill concerning the reauthorization of the Law Enforcement Assistance Administration.

In his message on crime the President spoke of three ways in which the Federal Government can play an important role in law enforcement. It can provide leadership to State and local governments by enacting laws which serve as models for other jurisdictions and by improving the Federal criminal justice system.

It can enact and vigorously enforce laws covering criminal conduct that cannot be adequately handled by local jurisdictions. In addition, it can provide financial and technical assistance to State and local governments so that they can improve their ability to enforce the law.

LEAA is the means by which the Federal Government performs this final, important function.

As you know, the Omnibus Crime Control and Safe Streets Act of 1968 establishing LEAA was the first Federal program to rely primarily on bloc grants to States rather than on categorical grants for specific purposes to smaller units of government.

In establishing the LEAA program, Congress recognized the essential role of the States in our Federal system. The act reflects the view that since crime is primarily a local problem and criminal justice needs vary widely, a State is generally in a better position than the Federal Government to determine its own criminal justice needs and priorities.

Under the LEAA bloc grants States have spent their grant funds according to their perceived needs. In fiscal year 1974 Rhode Island spent over half of its bloc grant funds for detection, deterrence, and apprehension of criminals, while the State of Washington spent only 20 percent of its funds for this purpose, choosing to place greater emphasis on crime prevention.

Similarly Pennsylvania placed a heavy investment of LEAA funds in noninstitutional rehabilitation while Texas made a comparable funding effort in support of adjudication. We believe this flexibility is one of the program's principal virtues.

Under the basic bloc grant approach embodied in part C of the act, however, LEAA is much more than a mere conduit for Federal funds. Although, as you know, the amount of basic bloc grant funds allocated annually to each State is based on population, each State is required to consider certain factors and develop an approved State plan before becoming eligible to receive them.

These are set forth in sections 301 through 304 of the act. Thus, the LEAA program prompts each State, in cooperation with the units of local government, to engage in a comprehensive analysis of the problems faced by the law enforcement and criminal justice system in that State.

In reviewing the State plans, LEAA is able to insure that LEAA funds are expended for the purposes intended by the act while leaving to the States the responsibility for designating the projects which will receive funds.

The LEAA funding program does not consist exclusively of bloc grants.

LEAA also makes categorical grants for corrections programs and law enforcement education and training. In fiscal year 1975 \$113 million, or approximately 14 percent of the LEAA budget, was allocated to categorical grants for correctional institutions and facilities and \$40 million, or approximately 4.6 percent of the LEAA budget was allocated to the law enforcement education and training categorical grant program.

These programs have provided needed visibility and emphasis in these unusual areas.

In addition LEAA conducts a discretionary grant program designed to advance national priorities, draw attention to programs not emphasized in State plans, and provide special impetus for reform and experimentation within the total law enforcement improvement structure created by the act.

One obvious and lasting contribution of the discretionary grant program is the work of the National Advisory Commission on Criminal Justice Standards and Goals. This Commission, funded by LEAA, has issued a series of reports with numerous specific suggestions for improvement of law enforcement and the criminal justice system. In response to its work, Congress has required that each State establish its own standards and goals for the expenditure of LEAA bloc grants.

Since 1973, LEAA has provided over \$16 million in discretionary funds to 45 States to assist them in the development of those standards and goals, which are already included in the State comprehensive plans now being submitted to LEAA.

The discretionary grant program also permits a funding of demonstration programs designed to test the efficacy of promising approaches to difficult problems. An important current example of this is the career criminal program. In the recent past there has been a growing appreciation of the amount of crime committed by repeat offenders, often while awaiting disposition of outstanding charges against them.

Last year President Ford asked the Department of Justice to develop and implement a program to deal with career criminals, with the objectives of providing quick identification of persons who repeatedly commit serious offenses, according priority to their prosecution by the most experienced prosecutors, and assuring that, if convicted, they receive appropriate sentences to prevent them from immediately returning to society once again to victimize the community.

LEAA discretionary grants are now financing such programs in 11 cities. If, as hoped, they prove successful, it is expected that they will be institutionalized in those communities, with the State and local governments assuming the cost, and widely imitated elsewhere.

Complementing the discretionary grant program is the National Institute of Law Enforcement and Criminal Justice.

As the research arm of the LEAA, the Institute presently serves to encourage and evaluate new programs and promote the nationwide implementation of those which are successful. Its current activities include projects concerning crime prevention through environmental design, reduction of sentencing disparity, the efficacy of police patrols, and the evaluation of the impact of Federal assistance on the national criminal justice system.

In essence, we believe that the present organization of LEAA provides the needed flexibility for appropriate Federal involvement in the law enforcement area, while preserving a sizable bloc grant program which is responsive to State and local priorities.

LEAA's structure permits help for the continuum of services needed for an effective enforcement program. This includes basic and applied research to identify new approaches to solving problems, discretionary grants to demonstrate these programs in selected areas, and bloc grants to implement them, and other programs, on a nationwide basis. The success of each of these is interdependent. We believe that LEAA as currently constituted is fundamentally sound. Nevertheless, there are several clarifications and refinements which we believe would improve the efficacy of the LEAA program. These are embodied in S. 2212.

S. 2212 proposes that the act be clarified by expressly stating that LEAA is under the policy direction of the Attorney General. The act now provides that LEAA is within the Department of Justice, under the "general authority" of the Attorney General.

Pursuant to this arrangement, the Attorney General is deemed ultimately responsible for LEAA. If this responsibility is to have adequate meaning, it is my belief that the Attorney General should be concerned with policy direction. Under the proposed language change, the day-to-day operation of LEAA and particular decisions on specific grants will remain with the Administrator, as they are now. I am told the proposed addition in language makes clear what is now assumed to be the case.

I should say that as a general matter, maximizing the appropriate interaction between the Department of Justice and LEAA would, in my view, be to the benefit of both. Each has experience and expertise on issues ranging over the field of criminal law enforcement, which should be shared.

Close cooperation between the Department and LEAA should not only enhance the activities of LEAA, but increase its helpfulness to to Department as well. As part of the effort to promote this, S. 2212 proposes that the Director of the Institute be appointed by the Attorney General.

In our view the LEAA program could also be strengthened by establishment of an expert advisory board as suggested by S. 2212. As envisioned, the board, appointed by the Attorney General, would review priorities and programs for discretionary grants and Institute funding, but would not be authorized to review and approve individual grant applications.

The views of the board would not be binding, but I am sure they would be helpful. They would bring to the Administrator and his staff the knowledgeable views of persons outside the LEAA system.

The discretionary funds awarded in fiscal year 1975 were at the level of \$183 million. I believe it will be useful to have an advisory board take an overview of the discretionary grant program as it proceeds so that the Administrator and his staff will have the benefit of criticism and encouragement for the program as a whole, and with respect to important segments of it.

S. 2212 also aims at further clarifying the act's intention to improve the law enforcement and criminal justice system as a whole, including State and local court systems. As the President noted in his message on crime, "Too often the courts, the prosecutors, and the public defenders are overlooked in the allocation of criminal justice resources. If we are to be at all effective in fighting crime, State and local court systems, including prosecution and defense, must be expanded and enhanced."

We continue to be committed to the belief that the bloc grant approach affords the best means of addressing this problem, which varies in dimension from State to State. However, to emphasize the importance of improving State and local court systems, S. 2212 proposes that a provision be added in order to explicitly identify improvement of court systems as a purpose of the bloc grant program. While the proposed provision would not require the States to allocate a specific share of bloc grant funds for court reform, it would

provide a clear basis for rejecting plans that do not take this interest into account.

Several LEAA studies suggest that many States and local court systems do not have a capability to plan for future needs. Thus they have been handicapped in participating in the comprehensive State planning process which is the key feature of the LEAA program.

S. 2212 would make clear that bloc grants can and should be used to enhance court planning capabilities. In addition, \$1 million of fiscal year 1975 discretionary funds have been earmarked for this purpose. Together these efforts should increase the capacity of court systems to compete for bloc grant funds.

The court system should also benefit from the proposal in S. 2212 authorizing the Institute to engage in research related to civil justice, as well as criminal justice.

In many respects, civil and criminal justice are now integrally related. In the context of court systems, for example, the civil and criminal calendars often compete and conflict. Judges and juries frequently hear both criminal and civil cases and the same management systems may apply to all cases.

In addition, measures affecting Federal courts invariably have effects on State and local courts. Thus, it is proposed that the Institute retain its emphasis on State and local law enforcement and criminal justice, but be permitted to fund appropriate civil justice and Federal criminal justice projects as well. Accordingly, it is proposed that the Institute be renamed the "National Institute of Law and Justice."

S. 2212 also proposes providing increased resources for areas with high crime rates through the discretionary grant program. As the President noted in his crime message, "In many areas of the country, especially in the most crowded parts of the inner cities, fear has caused people to rearrange their daily lives." For them there is no domestic tranquility.

This condition poses a difficult dilemma for the Federal Government. LEAA funds, although substantial, are a relatively small portion of the annual criminal justice expenditures in this country, representing only 6 percent of the national total.

The Federal Government could not afford to underwrite a nationwide war on crime through the bloc grant system. Indeed, as the concept of LEAA affirms, it would be inappropriate for the Federal Government to do so. Nevertheless, there is an immediate human need for more to be done.

We believe that this need can most appropriately be addressed by increasing LEAA discretionary grants for demonstration programs in area with the highest incident of crime and law enforcement activity—typically urban centers. Therefore, S. 2212 proposes that LEAA's authorization be raised by \$262 million through fiscal year 1981 to permit specifically appropriations and discretionary grants of up to \$50 million in each of 5 years for special programs aimed at reducing crime in these areas.

LEAA believes that its experimental high impact crime program has generated important information regarding urban law enforcement. It is now proposed that we build on this experience on a continuing basis through the discretionary grant program.

S. 2212 also includes several significant provisions regarding prevention of juvenile delinquency. One would authorize the use of LEAA discretionary funds for the purposes of the Juvenile Justice and Delinquency Act of 1974. A complementary provision would eliminate the related maintenance of effort requirements of the Crime Control Act and of the Juvenile Justice Act.

Authorizing use of LEAA discretionary funds to implement the Juvenile Justice Act would integrate this program with the rest of the activities administered by LEAA. If LEAA is given this authority, the need for the maintenance of effort provisions, which are inconsistent with the philosophy of the bloc grant approach, would significantly diminish. The States would be free to determine their own juvenile justice needs, while LEAA would be free to finance innovative programs or compensate for perceived misallocations of resources at the State level.

The suggested changes do not, of course, diminish the ability of Congress to fund the Juvenile Justice Act at levels it deems appropriate. In addition, I should emphasize, they do not reflect any weakening in our resolve to tackle the important problems of the juvenile offender. It is a most important problem.

Finally, S. 2212 proposes a 5-year extension of the LEAA program. This is an important provision. The LEAA program is based on the concept of comprehensive planning. The type of programs initiated by the States will be influenced in large measure by the length of the LEAA authorization.

We believe that the States should feel free to choose between relatively short range, immediate impact demonstration programs and longer range systemic reform efforts. An authorization of 5 years should reduce the possibility that their choices will be distorted by fear of the future.

In conclusion, Mr. Chairman, I would like to say that LEAA has contributed greatly to the professionalization of our Nation's law enforcement and criminal justice systems. The local, State, and Federal planning processes it has engendered represent an important contribution of ever-increasing value.

LEAA has, of course, had its difficulties, but this should not surprise us because its mission is one of the most difficult in government.

We believe that the philosophy and structure of LEAA in the development of which many members of this committee so thoughtfully participated, are fundamentally sound.

With the refinements suggested by S. 2212, LEAA should be able to build on its experience and further improve its performance of a task which is as important as it is difficult.

I will be pleased to respond to any questions you may have on S. 2212 and LEAA Administrator Richard W. Velde, is prepared to testify further on the LEAA program.

Thank you.

Senator McCLELLAN. Thank you very much, Mr. Attorney General. You have provided us with an excellent statement giving your evaluation of LEAA and its programs.

It is sometimes intimated, "Well, LEAA has not done anything to prevent crime. Look at the crime rate increase." Is there any yard-

stick by which you can actually measure the contribution LEAA has made toward reducing crime or helping to combat crime? Is there any way other than in generalities you can measure its contribution?

The ATTORNEY GENERAL. One can point to specific projects. I am sure Mr. Velde will do that. It is unfair to put LEAA to the test of saying "Show us how much greater the crime rate would be if your program had not been present."

Senator McCLELLAN. That is the point I am trying to emphasize, Mr. Attorney General. There is absolutely no way to do that, is there?

The ATTORNEY GENERAL. There is no way to do it at present. I believe that as LEAA develops and statistics and evaluations of statistics become better in particular areas, we should be able to show over time that particular methods in particular localities have been accompanied by a more successful and effective enforcement program and by a reduction in crime.

Senator McCLELLAN. What would apply to LEAA would apply equally to the Department of Justice, to the money expended for the courts and all other law enforcement agencies, would it not?

The ATTORNEY GENERAL. I think so. As our statistics improve, the level of crime appears to go higher. Because the statistics are better, they reflect not only reported crimes but unreported crimes.

In a sense, we can be victims of our own contributions. But I have no doubt that the Department of Justice has had and can have effective programs which reduce crime. I am sure that is the case. I think that common sense has to tell us, as one looks at the police departments in the United States and the training programs which LEAA has had which have been important with respect to police department officials, that the resulting greater knowledge and more professional conduct cannot but help achieve a better enforcement program.

Senator McCLELLAN. Is it not true that the prime responsibility for enforcing the law in this country, for maintaining peace and order, rests with State jurisdiction?

The ATTORNEY GENERAL. Absolutely.

Senator McCLELLAN. The only jurisdiction the Federal Government can exercise in this area is by assistance programs to local authorities, is that correct?

The ATTORNEY GENERAL. That is correct.

Senator McCLELLAN. That is the purpose, the intent of the LEAA Act and its programs, to aid and to assist local authorities, to strengthen law enforcement in local communities. Is that not true?

The ATTORNEY GENERAL. I agree absolutely.

Senator McCLELLAN. I am sure LEAA in its experimental years has made mistakes. I don't know of any agency of government that has not made mistakes. We need to eliminate any deficiencies in the law that we can observe and determine that are there and improve the statute by amendments where such amendments are indicated.

But I am persuaded that LEAA should not be abolished, that it should be continued and should be supported. Whether it should be supported at the full level of authorization requested is a matter that I think we will have to address ourselves to in our deliberations.

Because of the overall fiscal situation that confronts this country, many good things that we would like to do and possibly should be

done if we had the means cannot be done. However, if we don't get better control in the law enforcement area, if crime continues to increase at the rate it has in the past few years, there is going to be very distressing consequences in the future.

So I shall certainly support an extension of the Act with such modifications as appear to be appropriate at this stage of our experience with the agency. Senator Hruska?

Senator HRUSKA. Thank you, Mr. Chairman. Mr. Attorney General, we appreciate your appearance here. We also appreciate the suggested changes that you have proposed in the present law. They will be thoughtfully reviewed. I have done that prior to these hearings and in the main I must say that they are constructive and they will be helpful.

It is my hope that most of them will be incorporated into the Act in addition to such other changes as the committee might agree upon.

Mr. Chairman, it is my understanding that the Attorney General has other commitments and would like to get away as quickly as possible. I have several questions here which I should like to submit to him or Mr. Velde for consideration and to incorporate the answers into the record.

As to the rest of the questions, I should like to direct them to Mr. Velde later.

However, there is one question I would like to put to you now, Mr. Attorney General. In your proposal you recommend an amendment which would establish statutory authority in the Attorney General to create an advisory board for LEAA. Do you believe that it is preferable to do this by statute as you have proposed rather than by executive order which could be done as an alternative? What are your reasons for choosing one method rather than the other?

The ATTORNEY GENERAL. There are two reasons for that. I feel I do have the authority to create such an advisory board right now, but I think it is much better to have it be included in the statute for two reasons.

First, such an advisory board ought to be built in as a long run requirement for the administration of LEAA. Second, if it is in the statute, the members of the advisory board will take their task that much more seriously.

When that much money is being given away on a discretionary basis in an area as difficult as this one is, one needs the very best expert advice one can get on a continuing basis from this kind of a board.

LEAA has, I realize, had many advisory committees and has not been shielded from expert advice. But this kind of an overall advisory committee, which can reflect criticisms, can encourage choices, can help suggest those kinds of projects where evaluation can be particularly meaningful is a long range need and ought to operate on a continuing basis.

The members of that advisory group ought to know that they have a statutory basis for their presence.

Senator HRUSKA. Would they report and be accountable to you, to your office, the Attorney General's office, that committee?

The ATTORNEY GENERAL. I would appoint them but their recommendations would go to the Administrator. I must say that this attorney general would be exceedingly interested in what they had to say.

Senator HRUSKA. Under your broad policy direction, it would come out ultimately for those decisions that run into broad policy considerations?

The ATTORNEY GENERAL. That is correct.

Senator HRUSKA. Thank you very much. Mr. Chairman, I did arrive late on account of other official duties. May I have unanimous consent to include in the record at an appropriate place an opening statement?

Senator McCLELLAN. It is so ordered.

Senator, did you ask permission to submit question?

Senator HRUSKA. Yes, sir.

Senator McCLELLAN. The request to submit questions to be answered for the record is also granted, Senator Hruska.

Senator HRUSKA. Thank you, Mr. Chairman.

Senator McCLELLAN. Senator Kennedy, any questions?

Senator KENNEDY. Yes. I want to express my appreciation to the Attorney General for coming here today and talking about this important subject. It is quite clear from the fact of his presence here, that he is interested in doing something about the crime rate in this country. I think all of us on this committee are grateful for your presence here today and your willingness to testify.

I would agree with the comment that you made earlier, Mr. Attorney General, that we can't expect LEAA to solve the entire crime problem in this country, but what many of us are questioning at the time we are considering the reauthorization of approximately \$7 billion after looking back at the \$4 billion that we authorized in the past, is simply: What good is it going to do? I don't see that LEAA has had any significant impact on crime in this country, and that is why I am troubled by your statement that you would like a continuation of the program for the next 5 years, without very much adjustment.

The ATTORNEY GENERAL. Well——

Senator KENNEDY. It is difficult for me to understand at this time, at the opening of these hearings, when a number of independent agency reports released by the GAO and others have criticized LEAA's failure to monitor carefully the moneys it distributes, how you can be so sure that LEAA should be reauthorized. One June 1975 report of an independent study group points out that LEAA could account for only 39.9 percent of the total part C bloc grant funds it distributed in fiscal year 1974.

When you have these reports submitted by the GAO and others showing the failure of accountability and evaluation within LEAA itself, and couple this with the failure of LEAA to have a serious impact in terms of the war on crime, one must have serious reservations about the entire program.

This is not only my observation; when you look at the large amounts of money which LEAA designates to the States for long-term impact programs and find out that States themselves have vir-

tually turned their backs on such programs once Federal funding terminates, it does not appear that the States themselves have a great deal of confidence in the long-range goals of LEAA.

How can you be so sure that at the opening of these hearings—we have had only 2 days of hearings on this entire program over the last 7 or 8 years—that everything is so hunky-dory in this program.

The ATTORNEY GENERAL. I am not sure I used the term “hunky-dory.” I have watched LEAA and been concerned with it since before I became Attorney General, but especially since I have been Attorney General. I do think it is a most important effort. The Department of Justice has made its own study of LEAA. My belief is that this committee will be furnished some of those studies.

Senator KENNEDY. I am interested in your views, Mr. Attorney General. Although I have respect for the Justice Department, and I have a healthy respect for it, I am interested in your own view. You are the Attorney General. You have given thought to these particular problems. What I find troublesome is your willingness at the opening day of the hearings to endorse the program in light of the assessments, not of the individual members of this subcommittee, but of the GAO, and the independent commissions charged to review the evaluation of existing LEAA programs. I think they have made serious charges in terms of LEAA's failure of accountability, evaluation and financial waste.

We have not really provided the kind of major review to determine which LEAA programs are going well; you say in your testimony that we need more statistics, more information, even though we have already had 8 years of this program. These observations that I make about LEAA I think could be made about most of the other Government programs. For example, we are now taking a hard look in our health committee at the National Institutes of Health and the whole biomedical research program which, until now, has been a sacred cow. We appropriate \$78 million a year in education yet we can't demonstrate that children are receiving a better education.

I think it is clear that the mere extension of worthwhile programs, either for better health or education—or the war on crime—is simply not doing the job. You, as Attorney General, have a fundamental and basic responsibility before asking us to extend LEAA for an additional 5 years, and that is powerful testimony for all of us to ponder, to justify why we should accept the existing LEAA program?

I gather from your testimony that some adjustments are contemplated. I am glad to see, for example, that more money will be provided for high crime areas. But I am curious how you can be so sure that the Congress ought to just go ahead and appropriate another \$7 billion?

That is what we are talking about, authorizations for 5 years, about \$7 billion, maybe even more.

The ATTORNEY GENERAL. Senator, you have asked for my considered judgment. That is what I am trying to give. I think it would be a crushing blow—not only to the enforcement of the criminal law and deterrence of crime, but also to the standards of fairness in criminal justice—if this very important mechanism of aid to States were not continued.

I think it is the best hope—

Senator KENNEDY. You mean the way it is structured now?

The ATTORNEY GENERAL. Basically the way it is structured now. When the Congress votes money for an effort of this kind, the Congress must take into account that the very success of this kind of an effort is going to be accomplished by recognizing that, as it proceeds, errors are inevitably made because we are operating in an area where we have to discover new ways of doing things.

For example, I mentioned that there was a problem about statistics. I would venture to say that there is a problem about usable and useful statistics in every area of social action. The way to overcome this is to keep working at it, to recognize the deficiencies.

The recognition of the deficiency does not show failure. On the contrary, it shows that one is on the road to doing better. I am convinced that LEAA is on this road. The Agency is in a pioneering area. I cannot buy the argument that the improvement of a prosecutor's office so that the prosecutor knows what he is doing, so that the important cases are taken first, so that the better litigators handle the important cases, so that the experienced people sift out those cases that should be given attention—I cannot buy that that has no effect on criminal justice.

One can see that effect because of this program.

It is not as widespread as it ought to be. The challenge and the opportunity is enormous. But I want to insist that as we discover our own absence of knowledge and mistakes in this very difficult area, we are on the road to progress.

Senator KENNEDY. Well, Mr. Attorney General—it may very well be that those particular programs you mentioned ought to be expanded, doubled, or tripled. It may very well be that that can be the most effective way. But you are not suggesting that to us today.

You are saying go ahead and do business as usual in terms of the basic form of a program that has expended \$4 billion, despite the fact that various independent reports show that there is widespread unaccountability in the LEAA program.

This is in addition to the fact that the States, when they have any option to carry on or continue these programs independent from LEAA have virtually thrown them over the side. According to the GAO only 6 percent of the long-term programs available to the States have been continued by the States after LEAA funding ceased.

I wonder why we ought to be so quick to put the stamp of approval on this program when you yourself state that although some programs are working well other programs are not.

Why should we do that?

Why come up here and say reauthorization for 5 years? This is in the face not just of our criticism but what I think has been fair evaluation by the GAO. If you want more time, I want you to have more time; why not say, give us more money to do evaluation over the next 2 years and then we can come back to you and tell you where it is best to put the American tax dollar?

The ATTORNEY GENERAL. Evaluation has to be built into every stage of the effort.

Senator KENNEDY. Are you satisfied with the existing evaluation now?

The ATTORNEY GENERAL. I am satisfied that a much better evaluation effort is being made than previously. I am satisfied that as the program continues, more evaluation will be built in. The most significant thing about evaluation in my judgment is not the later stage when a project is evaluated, but the experience which creates the project originally and makes it the kind of a project that can be evaluated. That takes work over a considerable period of time. Unfortunately, the reality is that the process takes a number of years. I also want to say that the philosophy of the Act in leaving many of these matters to State councils is the proper way to proceed. The States have to learn, too. The fact that they have come up with programs which they have later rejected seems to be rather desirable.

We have an enormously difficult problem in this country with many factors entering into it. I have said that this is the most promising, successful way to go after trying to cure the problem.

Senator KENNEDY. What is your reaction to the GAO reports. What is your reaction to the independent commission reports?

The ATTORNEY GENERAL. I am familiar with GAO reports.

Senator KENNEDY. I am not talking generally about GAO. I am talking about—

The ATTORNEY GENERAL. I am not convinced by GAO reports that this program should be in any way abandoned.

Senator KENNEDY. They don't suggest that, Mr. Attorney General. They don't say that any program should be abandoned. They just report what is happening, an evaluation of various different programs and where the money has virtually been accounted for.

Why couldn't we just take a 2-year reauthorization period and develop the kind of evaluations that you talk about as necessary? We can't get away from the fact that maybe a case will be made after a 2-year concentrated effort that you are at last getting the kind of overview and evaluation that you have just expressed concern about?

Why don't we extend this program for 2 years so that we will be able to see what ought to be done by LEAA over a period of time?

Your testimony is in the face of these various reports—accurate reports about the LEAA. This was certainly an accusation prior to Mr. Velde and I am not directing this to him.

Why not reauthorize for 2 years and come back then rather than putting a stamp on this program for 5 years?

Why doesn't that make sense?

The ATTORNEY GENERAL. It is a matter of judgment. I believe many of the criticisms have been rectified by LEAA. The program has gone through many changes. Its administrative structure has gone through many changes over the few years of its existence.

I think it now has an effective structure. That is a matter of judgment. I do think that the Attorney General, as I have said before—and I have a special interest in that—should have his authority somewhat mildly clarified.

Senator KENNEDY. What is your recommendation in that area?

The ATTORNEY GENERAL. I want it spelled out that the Attorney General has general policy jurisdiction over LEAA.

Senator KENNEDY. What is your assessment now about the internal dissension within LEAA? How widespread is it? You have seen report about it.

The ATTORNEY GENERAL. My judgment is that the kind of dissension to which you are referring has its origins much in the past and is really not important in terms of the issues that we are discussing. That is my judgment.

Senator KENNEDY. You mean it was all in the past?

The ATTORNEY GENERAL. It has roots in the past. I do not think it is the kind of thing which rises to the level of whether the act should be reauthorized for 5 years or 2 years or anything of that nature.

Senator KENNEDY. One of the newspapers here, one of the major daily newspapers, has used the term "paralyzed" to characterize the agency because of these internal mixups. Is that an overstatement?

The ATTORNEY GENERAL. I think it is an overstatement.

Senator KENNEDY. Could you talk for a few minutes, just briefly about the general crime problem, about the growth of crime? We have seen statistics: 13 percent this year; 17 percent increase last year; and this does not really take into account all the unreported crimes. What is the present crime situation?

The ATTORNEY GENERAL. What was that, Senator?

Senator KENNEDY. How significant is the growth of crime? How significant are these statistics which show significant growth at the present time? Do you expect that crime will continue to grow at that present rate?

The ATTORNEY GENERAL. My personal judgment is that any time a society has considerable unemployment or, on the contrary, has the kind of affluence which means that a great many people don't feel they have to do very much, and when there are many people involved who are in the age group where the crime incidence is likely to be highest, there will probably be an increase in crime.

I think that is what the statistics will show. I do think there are some mysteries about crime. Crime is also a kind of contagion. It spreads.

One of the things that I think is helpful in lowering the crime rate is the certainty of quick trial—detection, quick trial, and punishment. That we do not have. Our society does not have that at all.

It is in that area LEAA funds can be particularly helpful. I welcome LEAA's greater emphasis on the prosecutorial system and the court system. It will enable us to hurry that process.

Senator KENNEDY. Well, what percentage of LEAA funds is directed to the area that you think now to be the most effective in combating crime, the quick trial and the sentencing?

The ATTORNEY GENERAL. I think Mr. Velde can better answer that.

Senator KENNEDY. The Attorney General mentioned the area he thinks is most important. Can you tell us what percentage of the LEAA budget goes into the courts?

Mr. VELDE. We will submit a table for the record which gives by broad categories those figures. For courts in general it is running about 16 percent. That includes prosecution and defense.

Senator KENNEDY. Here we have the Attorney General saying that the area which he thinks offers the best opportunity to do something

about crime is the courts, if we perform quick trial and sentencing. I frankly agree with him. We find out now that the program that we are asked to reauthorize for another 5 years provides only 15 to 16 percent of the Federal resources in that area.

What sense does that make?

Mr. VELDE. Senator, LEAA funding represents a significantly higher percentage than the relative amount State and local governments allocate for court purposes.

Senator KENNEDY. I am not asking you about the States.

Mr. VELDE. LEAA funds also represent only about 5.5 percent of what State and local governments spend for criminal justice. LEAA money is seed money. It supports innovative projects. It does not subsidize ongoing operational budgets. That is not the purpose for which this program was established. The Attorney General has mentioned our emphasis on the career criminal program. We also have a heavy investment in the organized crime area, with an emphasis being placed on prosecution. There are a number of national projects that we support that try to encourage court involvement in the LEAA program and improve court efficiency and effectiveness.

One of the great difficulties has been that in many cases the courts are not interested in receiving LEAA funds. In one State, the chief justice does not want any Federal money of any kind.

Senator KENNEDY. The fact is if you think that this is the most effective way—I am not saying it is the entire answer but it is obviously the way the Attorney General believes—I wonder why we can't fashion either a court grant program or private court programs in these States, States that are willing to experiment with these kinds of court programs?

Aren't we better off establishing pilot programs where you can come back in 2 years and say to Members of Congress, we have experimented in these areas and these are the results?

When you have the Attorney General saying that it is in the area of quick trials and in the sentencing area that one is offered the greatest hope in fighting crime and you then say we are spending only 15 percent of the taxpayers' money in these areas. I can't help but believe that you can sweeten that program to develop project programs to try and deal with that which the Attorney General himself is advancing.

This is the kind of review I am hoping we will be able to consider in our review of LEAA programs.

Mr. VELDE. These initiatives can and have been taken. These are the very proposals embodied in the administration's bill. The high crime area proposal is one example. It represents an initiative based on the experience of successful pilot projects we have completed. The impact cities program was a 3-year effort in which \$160 million in discretionary funds went to eight cities. We are now building on that experience and trying to improve the program.

Senator McCLELLAN. Mr. Velde, you are scheduled to testify later. I am trying to accommodate Mr. Levi. The Chair would like to announce that we have other witnesses here. We have a Governor who wishes to testify and also a distinguished representative from my State is scheduled to testify.

If it is agreeable with the committee I propose that we continue on before we recess. Is that satisfactory?

Senator HRUSKA. Let's make the effort.

Senator McCLELLAN. Very well; proceed then, Senator Thurmond.

Senator THURMOND. I just want to make this comment about crime. In my judgment, one of the best deterrents to crime is capital punishment. I think we have to return capital punishment because that is the only thing some of these hardened criminals understand.

If they know that they will not get capital punishment they will take a chance. Another thing I think would help greatly in reducing crime is to make a mandatory prison sentence for a person committing a crime with a gun. Mr. Attorney General, you may have recommended that.

Did you?

The ATTORNEY GENERAL. Yes, I have.

Senator THURMOND. I think that is a very important feature. A person would know then that if he goes out and takes a gun and commits a crime, he has got to go to prison. What criminals fear is their life or their freedom which are the most precious things that anyone has.

If their life is in jeopardy when they commit a crime, it is going to deter. If they know their freedom is in jeopardy if they commit a crime with a gun, it is going to deter.

Now I realize that we have some judges that are too soft. We have some parole officers that are too soft. But those are matters for the State. As the able chairman said, law enforcement is primarily a responsibility of the States. I hope the Governors and I hope the State officials, the prosecuting attorneys, and the judges in the States will not turn to the Federal Government for the solution of crime.

It is right in their backyard. If the criminals in a State know that they have a Governor who stands behind law enforcement, that they have judges who are going to give stiff sentences, and that they have prosecuting attorneys who are not only fair but fearless, it is going to do a great deal to reduce crime.

There are a lot of things that can be done but I want to throw those things out from my experience as a lawyer and as a judge and as a Governor. I am confident the crime rate can be reduced and I think we are sidestepping a lot of issues.

I think some Supreme Court decisions have gone too far. I am glad they are swinging back some now. But this crime situation has now got to be solved. As Senator Morgan said in his statement people are more interested now in their safety and domestic tranquility than they are in what happens abroad or in some other areas.

If people can't walk the streets safely, can't go out of their homes and feel safe, can't go to their businesses and feel safe, then this is a dangerous place to live. I think we have a responsibility as a Congress to take steps we are able to to reduce crime.

I think the Supreme Court and the other courts have a deep responsibility. I wanted to thank you for your interest in this matter. I think LEAA has been helpful.

I want to compliment Mr. Velde because I think he has done a fine job. Thank you.

Senator McCLELLAN. Thank you, Senator Thurmond.

Mr. Attorney General, again we appreciate your coming.

Mr. Velde, you are scheduled as the next witness. I would appreciate it if you would be willing to insert your prepared statement in the record at this time and then let us hear other witnesses. I would ask you to remain subject to call for interrogation after we have read your statement.

Would that be satisfactory to you?

Mr. VELDE. Mr. Chairman, I would be pleased to do as you request. I do have a statement and an attachment to that statement which comments specifically on the pending bills. With your permission, sir, I would like to offer that for the record at this time.

LEAA has also prepared a rather comprehensive set of responses to a list of questions submitted to us in advance by Senator Hruska.

We would like to make that available for the subcommittee's use at this time.

Senator McCLELLAN. Let your prepared statement and the other materials to which you have referred be made a part of the record and inserted in the record at this point in our hearings.

[The documents referred to follow:]

STATEMENT OF RICHARD W. VELDE, ADMINISTRATOR, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Mr. Chairman, I wish to thank you and the members of the Committee for the opportunity to testify on the bills to amend the Omnibus Crime Control and Safe Streets Act: S. 2212, S. 2245, S. 460, S. 1297, S. 1598, S. 1601 and S. 1875. My testimony will address, in detail, the Administration bill, S. 2212.

The President, in his crime message of June 19, 1975, stated that the individual, political, and social costs of crime cannot be ignored, that they demand our attention and a coordinated action. The President called on all levels of government—Federal, State and local—to commit themselves to the goal of reducing crime by seeking improvements in the criminal justice system. He urged that the program of the Law Enforcement Assistance Administration be extended through 1981 in order to provide the necessary financial and technical assistance to help State and local governments to achieve this goal.

The basic assumption underlying the establishment of the LEAA program in 1968 was that law enforcement authority is primarily reserved to State and local governments and that crime control is essentially their responsibility. In 1975, this is still the basic philosophy behind the LEAA program. LEAA fulfills its mandate through a program that fully recognizes the State and local responsibility for crime control.

The LEAA program creates a unique Federal, State, and local partnership. Under the LEAA program, State governments serve as planners, administrators, coordinators, and standard setters. Local governments plan for programs at the local level, assist the State in developing Statewide goals, priorities and standards, and carry out programs at the local level with LEAA funds granted by the State.

The Federal government exercises general oversight responsibility to see that the funds are spent in accordance with the LEAA Act, the State plan, and the requirements of other Federal laws.

Each State, in cooperation with the units of local government in the State, establishes its own programs for criminal justice and law enforcement improvement through a planning process which includes a total and integrated analysis of the problems faced by the law enforcement and criminal justice system in that State. The State programs must demonstrate determined efforts to improve the quality of law enforcement and criminal justice in ways that we hope will prevent and reduce crime and delinquency.

Once LEAA has determined that a particular State's plan conforms with statutory and regulatory mandates, the designation of which projects will receive funding is a State responsibility.

LEAA also provides technical assistance to the States, assists in statistical analysis and systems development, conducts research into new methods, techniques and equipment for crime control and system improvement and provides discretionary grant funds for innovative and promising programs such as LEAA's Career Criminal and Court Planning Programs.

The Law Enforcement Education Program (LEEDP) is an effort of which we are particularly proud. Academic assistance has been provided to a great many persons involved in the study of law enforcement and the criminal justice system either full-time or while working. The program has grown from 485 educational institutions to over 1,000 and from about 20,000 students to nearly 100,000 participating annually. The number of universities and colleges that offer criminal justice degrees had quadrupled since 1969.

An example of the unique Federal, State, and local relationship in the LEAA program is the work of the National Advisory Commission on Criminal Justice Standards and Goals and the efforts of the States to develop their own standards and goals. The Commission was funded by LEAA and issued six reports containing hundreds of recommendations for improvement of law enforcement and the criminal justice system. These reports were the product of intensive study and deliberation by outstanding members of State and local law enforcement and criminal justice agencies, and the private sector. LEAA did not dictate or control the work products of the Commission.

LEAA recently established a National Committee on Standards and Goals to oversee the work of five new task forces created to assist the establishment of more detailed standards in the areas of organized crime, civil disorders and terrorism, juvenile justice, private security and research and development.

The importance of standards for criminal justice was pointed out by the National Advisory Commission when it stated:

"The first principle guiding the Commission's work is that operating without standards and goals does not guarantee failure, but does invite it.

"Specific standards and goals enable professionals and the public to know where the system is heading, what it is trying to achieve, and what in fact it is achieving. Standards can be used to focus essential institutional and public pressure on the reform of the entire criminal justice system."

Evaluation is another example of the Federal, State and local relationship of the LEAA program. LEAA in the past two years has placed increased emphasis on helping State and local participants implement project evaluations. Encouraged by provisions of the Crime Control Act of 1973, a systematic evaluation program is now under way. As part of that effort to identify promising LEAA supported projects, the Agency prepared in 1975 a Compendium of Selected Criminal Justice Projects. A copy of this reference document has previously been supplied to the Committee. The Compendium describes more than 650 projects and summarizes their reported impact on crime or the criminal justice system. A majority of the projects have provided basic criminal justice services at the State or local level and emphasize evaluation. One third of the projects are considered especially innovative.

The National Criminal Justice Reference Service is a clearinghouse of information on LEAA programs and other items of interest to the law enforcement and criminal justice community. Material from the Reference Service's library of over one million items is available to any interested individual or organization. A mailing list with over 30,000 listings is maintained to keep users informed of significant programs and new publications of interest.

LEAA is in the process now of implementing a further agency-wide system that will routinely assess and disseminate information on particularly promising approaches to crime control and system improvement.

Although the major share of LEAA's appropriation is distributed in the form of block grants to the States, a certain amount is retained by the Agency for the discretionary grants mentioned earlier. This money is used to assist programs of national scope, such as the standards and goal program, and to provide special impetus for innovative and experimental projects. A number of advanced techniques have been developed in this manner and have been adopted by many States and localities as part of our technology transfer effort.

While block grant action funds are designed to meet State defined priorities and needs, discretionary grant funds are viewed as the means by which LEAA can exert national leadership in achieving our goal which is, in partnership with State and local governments, to reduce crime and improve criminal justice.

The thrust of the LEAA discretionary grant program can best be explained by a statement from the LEAA discretionary grant guide. The guide states that discretionary grants are used to: "... advance national priorities, draw attention to programs not emphasized in State plans, and to provide special impetus for reform and experimentation within the total law enforcement improvement structure created by the Act."

LEAA, therefore, wants the discretionary grant program to be as effective as possible. A provision in S. 2212 would authorize appointment of an Advisory Board to review grant programs utilizing discretionary funds. The Advisory Board would include recognized experts and practitioners who would bring a broader base of knowledge into the program area than is now available within the Federal establishment. This outside perspective should increase the ability of LEAA to support the development of programs that will effectively help reduce crime and delinquency.

HIGH CRIME AREAS

In 1970, LEAA's enabling legislation was amended to provide for the allocation of adequate assistance to deal with law enforcement problems in areas characterized by both high crime incidence and high law enforcement activity. This set the basic pattern for directing funds into areas of high crime. LEAA, through its discretionary funding established the Impact Cities program.

The High Impact Anti-Crime Program is an intensive planning and action effort designed to reduce the incidence of stranger-to-stranger crime and burglary in eight American cities by five percent in two years and twenty percent in five years. Since the announcement of the program on January 13, 1972, more than \$152 million has been awarded to the eight target cities. Components of the program have included: the establishment of crime analysis teams in each city; analysis of target crimes, victims, and offenders; formulation of comprehensive objectives for target crime reduction; development of programs and projects responding to identified needs; and, monitoring and evaluation of individual projects and overall programs. In their final phase activities, the target cities are responding to the program's goal of "institutionalizing" those capabilities and activities introduced by Impact, thus providing for a lasting contribution from an intensive, short-term federal demonstration program.

LEAA's experience in this area indicates that there is a need to be even more directly responsive to the concerns of high crime areas. As the President stated in his crime message:

"In many areas of the country, especially in the most crowded parts of the inner cities, fear has caused people to rearrange their daily lives. They plan shopping and recreation during hours when they think the possibilities of violent attacks are lower. They avoid commercial areas and public transit. Frightened shopowners arm themselves and view customers with suspicion."

An amendment is, therefore, being proposed in S. 2212 which would provide additional authorization to LEAA to provide funding of up to \$262.5 million through 1981 for special programs aimed at reducing crime in heavily populated urban areas. These funds would be in addition to funds committed by the States from LEAA block grants.

COURT IMPROVEMENT

One of the most important features of the proposed legislation is that it places special emphasis on improving the operation of State and local court systems.

S. 2212 would place special emphasis on improving State and local court systems by both LEAA, through discretionary funding, and the State planning agencies, through block grant funding.

Although LEAA funds have consistently financed court improvements, the new legislation would bring a needed focus to this area.

A recently completed LEAA funded project reviewed the court-related aspects of the LEAA program in four representative States: Arizona, California, Georgia, and Wisconsin. One of the points emphasized in the report of the study team is that State courts generally do not have the capability to plan for future needs. For this reason, State court systems have not been able to adequately participate in the comprehensive planning process which is the key feature of the LEAA program. To begin to remedy this situation and to assure that State court systems will be able to develop the necessary planning capability, one

million dollars in fiscal year 1975 discretionary funds have been earmarked to support State court planning. S. 2212 would also allow States to use block grant funds to support State court planning, as well as action programs. It is expected that this focus on strengthening courts will promote increased State court involvement in the LEAA program.

Another key amendment which should have a beneficial effect upon courts is the one authorizing LEAA's National Institute of Law Enforcement and Criminal Justice to conduct research related to civil justice, in addition to criminal justice. In keeping with this new thrust, it is proposed that the National Institute's name be changed from the National Institute of Law Enforcement and Criminal Justice to the National Institute of Law and Justice. The Institute would also be authorized to conduct research relative to Federal law enforcement and criminal justice.

INDIAN TRIBE LIABILITY

Another amendment I would like to discuss briefly, Mr. Chairman, is the one which would allow LEAA to waive State liability where a State lacks jurisdiction to enforce grant agreements with Indian tribes.

On June 3, 1975, the Comptroller General advised us that LEAA did not have the authority to waive State liability for misspent Indian subgrant funds. Therefore, this amendment seeks to statutorily allow for such a waiver by LEAA. We believe that there is a need to actively continue assistance to Indian tribes free from inter-governmental jurisdiction concerns among the tribes and the States.

NONPROFIT ORGANIZATIONS

In 1973, an amendment was adopted making nonprofit organizations eligible for direct discretionary funding under Part C of the Act. An amendment proposed in S. 2212 would extend such eligibility to Part E discretionary corrections grants awarded by LEAA and make Part E authority parallel Part C authority.

ATTORNEY GENERAL'S AUTHORITY

Several administrative provisions have been added to the Act to clarify the Attorney General's authority over LEAA. The agency has always operated with the understanding that, while day-to-day operations are the sole responsibility of the Administrator, general policy direction is necessarily the responsibility of the Attorney General since LEAA is an agency within the Department of Justice. With the proposed amendment, this policy would be clearly set forth in the LEAA Act. The amendment is consistent with the remarks made on the floor of the Senate by the Chairman of this subcommittee in 1970 during debate on the Omnibus Crime Control and Safe Streets Act of 1970. In addition, authority to appoint the Director of the National Institute would vest in the Attorney General.

FIVE YEAR EXTENSION

The Administration in S. 2212 is requesting a five-year extension of the LEAA program. The types of programs—short-term demonstration programs or long-range systemic reform programs—ultimately funded by the States will, to a large extent, be determined by the length of reauthorization of the LEAA program. If the States cannot count on the LEAA program authority for five years, they will tend to adopt shorter-term goals and they will fund programs or projects whose impact will be realized over a short-term.

JUVENILE DELINQUENCY PREVENTION

Two provisions are proposed to deal with juvenile delinquency prevention. One would authorize the use of LEAA funds for the purposes of the Juvenile Justice and Delinquency Prevention Act of 1974 so that a unified juvenile justice thrust can be assured. The second provision eliminates the maintenance of effort provisions of Section 520(b) of the Crime Control Act and Section 261(b) of the Juvenile Justice Act. The rationale for this provision is based upon various considerations.

First, the maintenance of effort provisions are incompatible with the new language to authorize the use of Crime Control Act funds for the general purposes of the Juvenile Justice and Delinquency Prevention Act.

Second, the maintenance of effort provision is contrary to the block grant approach to funding. Our conviction is that the individual States and the elements within the planning structure of the States are in a better position to determine funding priorities for block grant funds. To dictate the amount of funds to be expended for one particular aspect of law enforcement and criminal justice limits the States' flexibility in planning for effective crime prevention.

Third, the uncertainty of appropriations for future fiscal years due to national economic conditions or other factors could result in a decreased block grant allocation. This factor, coupled with the fact of continuation funding for large numbers of individual subgrant projects, could result in States having to neglect funding of high priority and innovative programs in order to meet a "quota" of expenditures for juvenile delinquency programs.

Finally, LEAA does not believe that the use of 1972 as a base year is reflective of the overall efforts of individual States; neither does it establish an acceptable spending level for any particular State. Unfortunately, the establishment of expenditure "quotas" based neither on needs nor funding priorities could be construed as a maximum level of expenditure without regard to the need for even greater levels of expenditure for juvenile delinquency programs. This would do damage to the establishment of a comprehensive juvenile justice and delinquency prevention program.

OTHER PENDING BILLS

I would like to discuss a number of additional bills pending before the Subcommittee. The Department of Justice has previously submitted comments; therefore, I will only briefly review the position of the Department on these bills.

S. 460

S. 460, the "Criminal Justice Professions Development Act of 1975" would add a new Part J to the Omnibus Crime Control and Safe Streets Act, as amended. LEAA would be authorized to make additional grants to States and localities for programs relating to the training, recruitment, employment, and compensation of professional and paraprofessional personnel in the criminal justice system. Particular emphasis would be placed on personnel entering the field of correctional administration and rehabilitative services. A new National Advisory Council on Criminal Justice Professions Development would be established, and the Attorney General would be required to periodically appraise existing and future national personnel needs in criminal justice. \$35 million would be authorized for the purposes of the legislation over three years.

The Department of Justice believes S. 460 to be unnecessary and duplicative of current LEAA efforts.

The purpose of Part D of the Safe Streets Act is to provide for and encourage training, education, research, and development in criminal justice. LEAA's research and information center, the National Institute of Law Enforcement and Criminal Justice, already conducts many of the types of programs contemplated by S. 460. In fact, the Institute is already required to conduct a survey of the Nation's law enforcement and criminal justice manpower needs. Additionally, the Law Enforcement Education Program of LEAA provides \$40 million annually to promote education and training for personnel in or soon entering into law enforcement and criminal justice system employment.

Part E of LEAA's enabling legislation authorizes additional grants for the purposes of encouraging State and local governments to develop and implement programs and projects for the upgrading of correctional facilities and the improvement of all kinds of correctional programs and practices. Many States also use some of their Part C funds to advance similar objectives.

S. 1297 AND S. 1598

S. 1297 is a bill which would amend LEAA's legislation to provide that the various State planning agencies would have to be established by the State legislatures and be subject to the jurisdiction of a constitutional officer selected by the legislature. S. 1598 would permit the legislatures to place the State planning agencies under the control of the State Attorney General or other constitutional officers of the State.

These bills would change the present law whereby a State planning agency is to be created or designated by the chief executive of the State and be subject

to his jurisdiction. Proponents of these measures would argue that placement of a State's LEAA program under supervision of the Governor gives the Chief Executive too much authority and serves to bypass the State legislature and other State law enforcement officials. However, it must be pointed out that when this provision was first adopted in 1968, just such issues were specifically considered and rejected by the Congress.

The Department of Justice strongly feels that any attempt to place the State planning agencies under the jurisdiction of legislatures rather than chief executives would be inappropriate. S. 1297 and S. 1598 would be destructive of the centralized and coordinated statewide planning which is one of the key elements of the LEAA program. Close supervision of the program would not be possible and there could be a danger of politicization of the entire LEAA effort.

Administration of a program to improve law enforcement and criminal justice is properly an executive function. According to the constitutional scheme under which State governments operate, powers of the branches of government are distinct. Overall responsibility for execution of the laws and supervision of law enforcement services resides with the chief executive. It is important that the governor retain this authority and the appropriate separation of powers be maintained.

Under the tripartite system of government existing in each State, the legislature already has substantial authority over the State participation in the LEAA program and the LEAA Act assures meaningful State legislative involvement in the LEAA program. No State, for example, can participate in the LEAA program unless the State legislature appropriates funds to match the funds received from LEAA. In addition, the legislature can hold oversight hearings on the LEAA Act and can conduct investigations of the LEAA program in the State.

For a further discussion of our views on this bill, Mr. Chairman, I would suggest review of a report on S. 1297 and S. 1598 submitted to the Chairman of the full Senate Judiciary Committee June 26, 1975, and included as Appendix A to my testimony.

S. 1601

The detailed views of the Department on S. 1601 are set forth in a similar letter dated August 13, 1975, and included as Appendix B to this testimony for the full information of the Subcommittee.

Basically, S. 1601, the "Criminal Justice Reform Act" would authorize LEAA to make grants and provide technical assistance to a maximum of four States and 500 additional localities for demonstration projects designed to test the effectiveness of comprehensive criminal justice reforms. Specific reforms which could be supported are enumerated in the bill.

The legislation would significantly depart from the block grant approach to funding under which LEAA currently operates, and would have the Federal Government in effect setting program priorities for the States. In addition, the legislation would be destructive of the comprehensive Statewide planning process fostered by the LEAA program.

A number of projects which embody one or more of the reforms enumerated by S. 1601 have already received substantial amounts of LEAA block or discretionary funds. However, the fiscal requirements of the proposed legislation, if implemented to its logical conclusion, would far exceed the resources allocated to date through the LEAA program. For these reasons, the Department recommends against favorable consideration of that bill.

S. 1875

S. 1875 would amend Section 303(a) of the Omnibus Crime Control and Safe Streets Act to add a requirement that comprehensive State plans include provisions for the prevention of crimes against the elderly.

The Department of Justice is presently addressing the problem of the elderly and crime from a number of perspectives. LEAA has continued to study and test measures to prevent crimes which seriously affect the elderly. A research program has been initiated which has as a primary goal the design and effective use of the physical environment in order to reduce crime and improve the quality of life. Research is also being carried out to deal with the impact of crime on different victims, with special attention to the needs and problems of the elderly. Additional attention is being given to the possible role of the elderly, particularly retired persons, in promoting crime prevention in the community.

One of the specific programs being emphasized through discretionary funding (\$200,000 grant has been made available) is a police program for service to protect the elderly. This program will involve the preparation of an instructional manual on and about elderly citizens and will provide guideline assistance to police departments on how to be of service to the elderly as well as establish a training team for police activities.

Because of this activity and because States are using LEAA block grant funds for similar projects, the Department of Justice does not believe that additional legislation is required at this time in this area. Again for the information of the Subcommittee, a letter more fully discussing our views on S. 1875 is included as Attachment C to my testimony.

S. 2245

The final legislative before the Subcommittee which would directly affect the LEAA program is S. 2245. That bill would amend the definition of a State eligible for LEAA grants, as contained in Section 601(c) of the Safe Streets Act, to include the Trust Territory of the Pacific Islands. That jurisdiction is presently not participating in the LEAA block grant program.

The Juvenile Justice and Delinquency Prevention Act of 1974 which is also administered by LEAA, specifically makes provision for participation of the Trust Territories. However, to qualify for formula grant funds, a comprehensive plan for prevention of juvenile delinquency and improvement of juvenile justice must be submitted to LEAA for approval. Because the Trust Territories have not previously qualified for LEAA assistance and have not developed an adequate planning capability, their participation in the Juvenile Justice program is inhibited. For this reason, and in recognition of the status of the Trust Territories of the Pacific Islands, LEAA would have no objection to an amendment of this nature.

CONCLUSION

It is essential that the Federal Government continue to help State and local governments to deal with the mounting crime problem they face. The LEAA program is the principal focus of Federal efforts to assist State and local governments in improving and strengthening their criminal justice systems to deal with the crime problem. S. 2212 would improve the effectiveness of the LEAA program and continue its efforts for five more years and I hope that this Subcommittee will give it primary consideration in its deliberations. I am submitting to the Subcommittee for inclusion as part of the record, a brief overview of many of the programs funded by LEAA, as well as a detailed response to Senator Hruska's inquiries of September 16, 1975.

I now would be pleased to answer any questions from you, Mr. Chairman, and from the members of the Subcommittee.

BRIEF OVERVIEW OF LEAA PROGRAMS

Congress created the Law Enforcement Assistance Administration in 1968 and since then has twice extended its authority. In these past seven years, LEAA has provided State and local governments more than \$4 billion in Federal anti-crime funds to support more than 80,000 criminal justice programs and projects.

LEAA has initiated programs in planning, crime prevention, police, prosecution, adjudication and offender rehabilitation. Progress has been made in such areas as the prevention and control of juvenile delinquency, organized crime and narcotics trafficking.

The National Institute of Law Enforcement and Criminal Justice, LEAA's research center, has provided law enforcement and criminal justice officials with new technology and approaches to fight crime, while the National Criminal Justice Information and Statistics Service has given the nation detailed reports on criminal victimization that will aid the nation in developing a broad-based anti-crime program.

PLANNING AND COORDINATION

One of the more significant accomplishments of the LEAA program has been the establishment of a network of State, regional and local planning units to plan for and coordinate law enforcement and criminal justice efforts.

At the State level, the planning agency plans for the utilization of LEAA funds through a comprehensive and integrated criminal justice planning process that includes the analysis of the State's needs and the development of goals, standards and priorities for addressing these needs.

At the regional and local level, planning units assist the States in defining their law enforcement and criminal justice needs and developing the goals, standards and priorities. The regional planning unit also plans for and addresses the use of LEAA funds. In those units of local government where criminal justice coordinating councils have been established, these councils have undertaken efforts to coordinate the functions of the various elements of the criminal justice system. Coordination efforts go far beyond planning for the use of LEAA funds. In a survey published last year, it was reported that almost 500 regional planning units and criminal justice coordinating councils had been established by the fifty States.

Virtually every State planning agency has assisted State legislatures through initiating, drafting and implementing State legislation. Legislative efforts initiated by State planning agencies have resulted in legislation to reform State penal codes, to establish standards for the operation of police agencies in the State and to unify correction and court systems.

Numerous States have undertaken efforts to develop master plans for corrections, courts and information systems which are designed to deal with all activities of the State over an extended period of time. The master plan for courts developed by the State of Alabama with support from LEAA has been cited in many national publications as a model for court reform. Similar efforts by the State of Hawaii to develop a corrections master plan and the State of Florida to develop an information systems plan have also been cited as model efforts.

DRUG ABUSE

Drug abuse continues to be a national problem and a national tragedy. The number of drug-related deaths in 1973 was estimated at 1,200, while the number of heroin addicts is placed at more than 250,000. LEAA's role in drug abuse control emphasizes discretionary funding of criminal justice related programs and treatment efforts within correctional institutions. Criminal justice State planning agencies fund treatment and prevention programs with block action grants.

In 1974, LEAA allocated more than \$51 million in block and discretionary funds for drug abuse enforcement and prevention. Of particular note is the Treatment Alternatives to Street Crime program, which integrates the criminal justice system with the health care system to treat drug addiction, particularly heroin addiction.

Robert L. Shevin, Florida Attorney General, recently described the TASC program in Dade County as "one of the most innovative and effective programs operating in Florida."

ORGANIZED CRIME

One of the most corrosive influences in our society today is organized crime. The Safe Streets Act mandated LEAA to assist State and local governments improve and strengthen law enforcement and criminal justice efforts against organized crime. LEAA has met this mandate by encouraging State planning agencies to give special emphasis to organized crime control programs and has established a National Organized Crime and Corruption program in LEAA's Central Office to fight organized crime. A November 1974 survey of LEAA-funded organized crime grants showed that 96 grants totalling over \$44 million have been awarded. These grants included among others projects to combat gambling, prostitution, loan sharking and white collar crimes.

It's estimated that these projects resulted in a capital loss to organized crime of \$1.5 billion. Involved was the recovery of \$45 million in stolen property; the confiscation of \$4.5 million in contraband; and the diversion of \$250 million in organized crime capital from investments in legitimate businesses and the closing down of organized crime projects. As examples, the Organized Crime Unit in Cincinnati, Ohio, recovered \$3 million in stolen paintings; the North Carolina State Bureau of Investigation diverted \$250 million in organized crime capital from legitimate businesses by preventing a sale of bonds by a legal dealer to an organized crime member. The Miami Police Department confiscated over \$50,000 in one gambling investigation and closed down a bookie operation which was netting more than \$55,000 per week. Miami also initiated an investigation

that stopped a narcotics operation netting \$325,000 per month; West Virginia saved over \$100 million in a corruption investigation involving the purchasing of goods and services; New York confiscated over 82,000 cartons of untaxed cigarettes valued at \$240,000; and Rhode Island stopped a Federal loan to an organized crime figure, saving the government \$2 million.

The first National Conference on Organized Crime attended by over 400 local, State and Federal law enforcement officials opened on October 1, 1975. Funded by LEAA, the conference consists of workshops and panel discussions. It is expected that the work of the conference will substantially update the 1967 Presidential Commission Task Force Report on Organized Crime.

CORRECTIONAL PROGRAMS

Another important area in criminal justice funded by LEAA is corrections. Emphasis has been placed on improving the administrative machinery of the correctional system. LEAA's correctional activities have involved such issues as the development of model institutional facilities and programs; exploration of special problems presented by such offenders as juveniles, women, the mentally disturbed and hard core offenders; the development of community-oriented facilities; the development of new vocational, educational and employment opportunities for offenders; and expansion of training programs for correctional personnel.

LEAA funds the National Clearinghouse on Criminal Justice Planning, which has provided assistance to more than 1,800 agencies, of which 800 were correctional agencies. LEAA has established a series of programs for correctional personnel that provide specialized training in management and in interpersonal communication. In all, the agency has and will continue to fund a wide variety of research and demonstration projects in the correctional area.

LEAA has encouraged the move by States to unify the corrections systems under one State authority. A number of States have for the first time organized a unified corrections system. And several States have drawn up statewide master plans for corrections.

COURTS

In the area of courts, LEAA is providing financial and technical support to help State and local court systems improve their planning and administrative capabilities.

One of the main thrusts of this effort is to help courts fully utilize LEAA planning funds. A series of regional seminars for those involved in court planning is scheduled. Within the next year at least four States will be assisted in organizing and implementing statewide judicial planning programs.

In addition, LEAA will provide technical assistance to all other States and assist in the development of court planning instructional materials. Currently, LEAA funding has aided in the creation of offices of State court administrators.

In the sphere of management, training and administration, LEAA technical assistance teams have dealt with all aspects of court reorganization from the initial planning and drafting of legislation through implementation. Two States which received such assistance were South Dakota and Kentucky. LEAA also has provided education and training for more than 7,000 State court judges and court administrators throughout the nation. An equally important project has devised and tested techniques for more efficient juror utilization. If the recommendations contained in this project were implemented nationwide they could result in a potential savings of \$50 million annually. At least one jurisdiction that is presently implementing the project recommendations anticipates a \$1 million yearly savings.

LEAA also is working to develop performance measures for courts and prosecutors that will identify bottlenecks and the resources needed to meet caseloads more effectively. LEAA also is supporting experiments using videotape, employing paraprofessional personnel, and identifying those cases which should not be part of the court docket, but should be diverted from the system.

LAW ENFORCEMENT EDUCATION PROGRAM

One of the programs LEAA is particularly proud of is the Law Enforcement Education Program (LEEP). Since LEEP's beginning 250,000 students have received grants or loans totalling over \$170 million. The number of colleges and universities participating in LEEP has grown from 485 to 1,073, while the

number of students now numbers 90,000, up 70,000 from the initial 20,000. About 80 percent of in-service students have been police department employees. LEAA also formed a new consortium of seven universities that is working to strengthen graduate research and doctoral programs in criminal justice. The consortium is a nationwide effort to attract highly-skilled professionals into the criminal justice system, and develop a pool of educators who are criminal justice experts.

CRIMINAL JUSTICE PROGRAMS FOR INDIANS

Another important but sometimes overlooked part of the LEAA program is the funding support it provides to some 500,000 Indians and Alaskan natives in 166 tribes located in 19 States. The LEAA Indian National Scope Program supports individual Indian tribal projects with \$4.6 million for Indian reservation criminal justice programs identified by Indian tribal leaders.

CITIZEN ACTION PROGRAMS

LEAA also has awarded \$30 million to support 94 discretionary grants emphasizing nationwide initiatives to aid victims of crime, witnesses to crime and support citizen action programs. LEAA recently released a national survey on the handling of rape cases and the treatment of victims, and a compendium of 685 crime control and criminal justice improvement projects was published. This compendium cited particularly promising projects for replication. These programs fall under the agency's citizens' initiative program which is working to assist crime victims; citizen and police witnesses; improve citizen participation on juries; increase citizen awareness and confidence in the criminal justice system; and aid citizens in initiating citizen action programs to prevent crime and improve criminal justice.

Earlier this year, LEAA organized a national competition, "Justice for Victims, Witnesses and Jurors." This competition generated an exciting public-response, producing 200 concept papers with 19 ideas selected for grant applications. Seventeen of the 19 projects were awarded grants totalling \$2 million. In addition, LEAA received and processed 225 non-competitive concept papers, responded to over 10,000 citizen inquiries and awarded 23 major grants in this area that totaled about \$8 million.

These grants ranged from a public education program sponsored by the American Federation of Women's Clubs to a \$996,000 project to the National District Attorneys Association for victim/witness projects in eight cities.

LEAA is following up this effort by meeting with such groups as the AFL-CIO, National Council on Crime and Delinquency, and the Junior League to enlist their support in this vital area of law enforcement.

The fiscal year 1976 allocation for this program is \$7.7 million and of this amount 21 grants totalling \$5.5 million are presently being processed.

CAREER CRIMINAL PROGRAM

Highlighted by President Ford as a critical area of concern, the President called for development of the career criminal project last September. LEAA has awarded nearly \$3.7 million to help prosecutors in 11 metropolitan areas develop programs to deal with career criminals—persons who habitually commit such serious crimes as murder, rape, aggravated assault, armed robbery, and burglary. The purpose of the program is to identify such offenders and give priority to the expert investigation, skilled prosecution, and prompt trial of such cases. This past week police chiefs, sheriffs, chief judges and assistant U.S. attorneys from 11 jurisdictions met in Washington to exchange information gained and discuss new approaches for data collection.

President Ford attended the meeting and was briefed on the progress of the program.

IMPACT CITIES

One of LEAA's major efforts to reduce street crime and more specifically stranger-to-stranger crimes (homicides, rapes, robberies, and aggravated assaults) is the High Impact Anti-Crime Program.

As of December 31, 1974, virtually all final phase project awards were made to the eight cities participating in this program—Atlanta, Georgia; Baltimore, Maryland; Cleveland, Ohio; Dallas, Texas; Denver, Colorado; Newark, New Jersey; Portland, Oregon; and St. Louis, Missouri. These cities, since announce-

ment of this program in 1972, have received more than \$152 million in LEAA funds to establish crime analysis teams, conduct national and city level program and project evaluations, and support anti-crime demonstration projects.

The High Impact program has aided in the development of a sophisticated planning and evaluation capability in the Impact Cities. Prior to implementation of the program, most of the cities lacked the data and analytical capabilities to describe in detail the crime situation in their city, to describe the nature and effectiveness of the criminal justice system's response and to measure the overall effectiveness of crime control programs.

With many Impact projects now beginning their second operational cycle, increasing numbers of evaluation reports are now available to judge just how successful were some of the programs funded under this effort. These evaluations represent some of the most vigorous and sophisticated criminal justice evaluations available, and the following examples represent a cross-section of projects that succeeded in meeting their goals:

In Denver, a Special Crime Attack Team (SCAT) posted a 25 percent reduction in burglaries in its target area when compared with the previous four months prior to heavy SCAT concentration. Aggravated robbery showed an 8 percent reduction over the baseline period.

An Operations Identification program in a section of St. Louis showed a 31 percent decrease in burglaries during a two-year period. In the city, as a whole, however, burglary was up 9.1 percent for the comparable period. Incidentally, LEAA just published a survey in which four cities which implemented Operation Ident programs reported significant reductions in burglary rates among the participants.

A probation program in Cleveland reported that over a 10-month evaluation period only two of 88 persons participating in the project were re-arrested. Eighty-one percent were employed during the project.

And in Denver a program called Community Outreach Probation Experiment provided intensive case supervision and treatment for juvenile probationers through the use of paraprofessionals and probation officers. During the evaluation period, COPE probationers experienced 3.3 percent fewer serious crime complaints and 16 percent fewer overall complaints. Probationary caseloads also were reduced.

POLICE PROGRAMS

The police are the most visible part of law enforcement, the nation's first line of defense against crime. LEAA's efforts in this vital area include support for short-term management and operational assistance to State, county and municipal police agencies; reduce citizen and community vulnerability to criminal attack through crime prevention techniques; increase law enforcement services to the elderly; improve police patrol productivity through directed management of the patrol force; assist rural enforcement agencies to better direct, coordinate and cope with violent crime; and improve law enforcement capabilities to deal more effectively with threats and acts of terrorism.

One of the areas in which LEAA is particularly active is in training police officers in crime prevention techniques. This comprehensive training program and information clearinghouse, the National Crime Prevention Institute, is at the University of Louisville, Louisville, Kentucky. It has received \$1.8 million in LEAA funds since September 1971. Basic and advanced crime prevention techniques have been taught to 1,500 police officers from 340 police agencies in the United States. Since fiscal 1972, more than 600 police officers trained at the institute have been placed into more than 250 crime prevention units. In addition, 19 States now require that crime prevention training at the institute be a prerequisite to State-funded crime prevention units.

Another crime prevention program that LEAA is funding is the National Neighborhood Watch Program by the National Sheriffs Association. This is a public education program in which sheriff departments throughout the United States distribute literature detailing how a home and a community can be protected against burglary and theft. This program initially centered on suburban and rural communities in an effort to increase citizen concern toward his own safety and security.

More than 50 million crime prevention information packets have been distributed to over 2,400 law enforcement agencies in the nation. LEAA has provided \$775,000 to fund this program since June 1972.

STANDARDS AND GOALS

One of the landmark achievements of the LEAA was the publication in 1973 of the report of the National Advisory Commission on Criminal Justice Standards and Goals. This six-volume report has been distributed to State and local criminal justice and law enforcement agencies throughout the country and has become the foundation for criminal justice improvement programs in nearly every State.

The commission developed more than 400 detailed proposals for improving courts, corrections and police agencies. The step-by-step proposals, which include timetables for action, are voluntary. All States have begun the standard-setting process and nearly \$16 million in discretionary funds has been awarded to 43 States. By December of this year, it is estimated that 20 States will have completed their standard-setting efforts.

In April, LEAA launched a new \$2 million program to create standards and goals for public and private law enforcement. This grant sponsors the work of a national advisory committee and five task forces that will study the private security industry, criminal justice research and development, and programs to combat juvenile delinquency, organized crime, civil disorders and terrorism.

RESEARCH EFFORTS

A key area in the overall LEAA program is the National Institute of Law Enforcement and Criminal Justice, LEAA's research arm. The Institute's task is to fashion innovative programs, evaluate such programs and promote the nationwide use of those programs which are found successful. Its fiscal 1975 budget was \$32.2 million.

Some of the current major research activities are crime prevention through environmental design; reduction of sentencing disparity; improvement of police patrol techniques; and assessing corrections programs for women.

Environmental design is an innovative \$2 million crime reduction program that utilizes the proper design and effective use of physical space to enhance citizen control over the environment to reduce the incidence and fear of crime. The principles of environmental design are now being applied on a neighborhood-wide basis in Hartford, Connecticut. The Institute also is designing and funding projects to demonstrate this concept in a commercial area in Portland, Oregon, in a school system in Broward County, Florida, and in a residential neighborhood in Minneapolis, Minnesota. Development of a similar model for public transportation is in the planning stages.

To cope with sentencing disparity, the Institute is evaluating sentencing council methods and appellate review of sentencing methods to judge how well they control disparity, and also is working to develop new sentencing guidelines for judges.

Patrol is the heart of police work but questions have been raised about the efficacy of patrol in general and preventive patrol in general. To provide police managers with factual data on patrol strategies and techniques, the Institute is examining the concepts of split force patrol, women on patrol, neighborhood team policing, specialized patrol operations, and preventive patrol.

The Institute also has funded a national study to assess current correctional programs for women. The results of this survey are due early in 1976.

Institute-sponsored technology research also cuts across traditional criminal justice lines, providing the most advanced technological developments to police, courts, and corrections agencies, as well as support for community crime prevention. Last year, the Institute initiated research to develop fast, reliable and inexpensive techniques for analyzing gunshot residue in criminalistic laboratories. A watch-size personal radio to be worn by citizens who need to summon help during crime-related or other emergencies is being developed.

Institute-sponsored research also led to the development of a new lightweight body armor for police. The armor is lighter than nylon and stronger than steel and can protect the wearer against bullets fired from most handguns. A jacket made of this material weighs about two or three pounds more than an ordinary sport coat, compared to 12 to 18 pounds for conventional body armor. Some 3,000 policemen in 15 cities will begin receiving this new body armor this month in a two-year test program conducted by LEAA. It is anticipated that this new lightweight body armor will reduce the number of the nation's law enforcement officers killed by guns.

A massive study of virtually all police handgun ammunition in the nation was prepared by the Institute. The study gives law enforcement agencies factual information to help them select handgun ammunition. The study not only considered the characteristics of the ammunition, but also the safety factors as they related to bystanders in the line of fire.

Thousands of cartridges were examined to ascertain stopping power, velocity, ricochet, shape, construction, and penetration. Also covered was point of aim, distance, hazard to by-standers, accuracy, and other effects of a bullet upon impact.

In summarizing the findings of Institute-sponsored research, it can be said that research has shown the way to improve the efficiency of criminal justice agencies; the potential for achieving a level of fairness in criminal justice heretofore thought unattainable; and the development of procedures to help individual citizens lessen their chances of being victimized.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Just a year ago, President Ford signed into law the Juvenile Justice and Delinquency Prevention Act, which assigned to LEAA the responsibility for implementing overall policy and developing objectives and priorities for all Federal juvenile delinquency programs. In June 1975, the office received its first appropriation—\$25 million.

Since its creation, the agency has explored juvenile delinquency problems with the 21-member National Advisory Committee on Juvenile Justice and Delinquency Prevention. It also set aside some \$8.5 million for public and private agencies that formulate innovative programs to keep juvenile status offenders out of detention and correctional facilities. There have been 361 applications for these funds.

Some \$17.3 million has been awarded to support juvenile delinquency treatment and prevention programs at State and local levels. Forty-one States, four territories and the District of Columbia received grants totalling \$10.6 million. Special emphasis programs will receive \$6 million and research and evaluation will receive \$724,324.

Prior to the enactment of the Juvenile Justice and Delinquency Prevention Act, however, LEAA was deeply involved in aiding the nation's criminal justice system in juvenile delinquency control and prevention. This role was made explicit in the 1971 amendments to the Crime Control Act, and the 1973 amendments required States to deal specifically with juvenile delinquency in their comprehensive plans for the first time.

The agency's total juvenile delinquency funding prior to the 1974 amendments totaled \$112 million and included diversion, prevention, rehabilitation, upgrading resources, drug abuse prevention, and other programs. These funds, in the main, were block action grants to the States.

Since its creation, LEAA has funded a wide range of juvenile delinquency prevention and diversion programs. Prevention efforts have included alternative educational programs at the secondary school level, training programs for parents of delinquent children, work study and summer employment programs, drug education, police/juvenile relations units, and police/juvenile recreation programs. Diversion programs have included Youth Service Bureaus, juvenile court intake and diversion units, drug abuse treatment programs, and pre-trial diversion units.

Since 1971, when Congress enacted a separate Part E corrections program for LEAA and gave the agency a specific mandate to fund non-institutional corrections programs for juveniles, LEAA has supported an assortment of innovative community-based programs for that age group.

LEAA also has been active in setting standards for the administration of juvenile justice. The National Advisory Commission on Criminal Justice Standards and Goals included many standards for juvenile justice. Currently, one of the five task forces of the National Advisory Committee on Criminal Justice, which LEAA is funding, deals exclusively with juvenile justice and delinquency prevention.

Because of these ongoing efforts, the new act has been absorbed easily into the structure of the LEAA program.

CIVIL RIGHTS COMPLIANCE

LEAA also has made significant strides in civil rights compliance. The agency's Office of Civil Rights Compliance has the responsibility of establishing

comprehensive procedures and programs for effective enforcement of the civil rights responsibilities of recipients of LEAA financial assistance in accordance with Federal law.

In 1973, LEAA published guidelines requiring validation of minimum height requirements and amended its Equal Employment Opportunity Program to require implementation and maintenance of Equal Employment Opportunity programs by certain LEAA recipients.

STATISTICAL EFFORTS

LEAA's National Criminal Justice Information and Statistics Service has the responsibility for developing timely national data and programs to encourage the uniform collection of statistics needed to rationally plan for crime reduction and to provide information needed for the effective operation of agencies involved in the anti-crime effort.

One of these data collection projects is the National Crime Panel, a nationwide survey of citizens and businesses to measure criminal victimization and attitudes concerning crime. Collection of data began in 1973 and first results were published in 1974. Thus far, 26 of the nation's largest cities have been surveyed; a survey measuring crime on a national basis has also been conducted. This latter study showed that the same categories of individuals, households, and commercial establishments repeatedly are victims of serious crime. The study also found that serious crime was about three times higher than reported to police.

The survey is part of a \$12 million project that will provide periodic reports on crime in the United States. Patterns that develop in the reports can be invaluable tools in helping the nation devise ways to prevent and reduce crime. The data will assist criminal justice planners to identify potential crime victims, and devise specific methods to help those individuals avoid becoming crime victims.

A second major program in this area is a series of statistical surveys and censuses in the field of corrections, collectively referred to as National Prisoner Statistics. This program will provide statistical profiles on the inmates and the institutions in which they are confined.

LEAA also is developing and implementing programs designed to address local, State, and interstate criminal justice information and communication needs. In concert with these programs, LEAA has published, pursuant to the 1973 Congressional mandate, regulations governing the security and confidentiality of criminal justice history records collected, stored or disseminated through LEAA funding. In addition, on September 24, 1975, LEAA published proposed regulations concerning the confidentiality of individually identifiable research and statistical information collected under LEAA grants. To our knowledge, this is the first set of regulations to be issued by any Federal agency protecting information identifiable to a private person obtained in a Federally-funded research project.

EVALUATION

Funding criminal justice programs is, of course, an important function of the agency. But LEAA also is working to determine how effective these programs are.

Last year, LEAA launched a multimillion-dollar program to evaluate the effectiveness of Federally-financed crime reduction projects. The National Institute of Law Enforcement and Criminal Justice is planning and supervising the two-year program. The National Conference of State Criminal Justice Planning Administrators, which represents State planning agencies that receive and distribute the major portion of LEAA funds, worked closely with LEAA in developing the evaluation program.

Under the program, information will be gathered and disseminated on the effectiveness and cost of various approaches to crime control and criminal justice improvements.

After all available information is in hand, a set of typical projects will be studied, and the cost and feasibility of implementing a full-scale assessment determined. Where sufficient reliable information about the topic area is available, the Institute will analyze the data and prepare recommendations and guidelines for the effective operation of specific projects.

PROCUREMENT CODE

As early as 1969, LEAA funded the West Virginia Purchasing Practice and Procedures Commission which resulted in the revision of the State's entire

procurement process. West Virginia State officials have credited this program with reducing corruption and the saving of millions of dollars to the State.

In 1974 LEAA awarded \$328,000 to the American Bar Association to develop a model procurement code that promises to save taxpayers across the nation millions of dollars a year and reduce white collar crime and public corruption at all levels of government.

The model code will serve as a guide toward the establishment of uniform procurement procedures. It will address the award process; contract terms; competitive bidding and source selection; standards and specifications; inspection and acceptance; advance payments; bonding; resolution of disputes; ethics in procurement; responsibility; and delegation of authority.

NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE

One last project that is worthy of mentioning is the National Criminal Justice Reference Service. This is a clearinghouse of information on LEAA programs and other items of interest to the law enforcement and criminal justice community. Material from the Reference Service's library of over one million items is available to any interested individual or organization. A mailing list with over 30,000 listings is maintained to keep users informed of significant programs and new publications of interest.

CONCLUSION

Since its inception, LEAA has been authorized to provide \$4.1 billion in anti-crime funds to State and local governments. Of that total, \$2.6 billion has been used to support programs and projects in the areas of police, courts, and corrections. Police received \$1.2 billion, or 46 percent; courts got \$409 million, or 15 percent; and corrections received \$1. billion, or 39 percent.

These, Mr. Chairman, are just some examples of the many programs and projects funded by LEAA in its role as catalyst in assisting in the development of innovative approaches to crime control.

Senator HRUSKA. I thank you for making arrangements for the other witnesses.

Mr. VELDE. I would like to make one comment with respect to the General Accounting Office audits.

Senator McCLELLAN. We can hear the statement, but your main testimony and interrogation will come later. Go ahead, Mr. Velde.

Mr. VELDE. Thank you, sir.

We have a permanent full-time staff of 9 General Accounting Office auditors currently assigned to LEAA. These auditors have examined our program in some detail. In fact, 25 separate audit reports regarding many aspects of the LEAA program have been issued by the GAO.

We have had a very constructive, open relationship with the General Accounting Office. My employees are directed to cooperate fully, withhold no information, and work with GAO in any way they can.

Two reports have been cited. We try to recognize any weaknesses in the management of our programs as soon as possible and take corrective measures. I would submit for the record, Mr. Chairman, a comprehensive consolidation of GAO findings and the responses which LEAA has made to those reports through the years.

Senator McCLELLAN. Do you have such a compilation?

Mr. VELDE. Yes; it is available and I would be pleased to submit it at this time.

Senator McCLELLAN. It will be received and made a part of the files of the subcommittee.

Mr. VELDE. It is of note, Mr. Chairman, that one particular GAO report cites with high favor three LEAA programs, and calls these

to the attention of other Federal agencies. Overall, the GAO reports indicate that there has been a close relationship with LEAA, constructive criticism, and immediate response by LEAA to any criticism that has been made.

We are pleased to continue that set of relationships. I think we have been as responsive as is possible, and try to deal effectively with any problems that have been raised.

Senator McCLELLAN. Thank you very much.

Our next witness is Governor Brendan T. Byrne of the State of New Jersey, who is appearing on behalf of the National Governors Conference.

Will you come forward, Governor Byrne?

STATEMENT OF HON. BRENDAN T. BYRNE, GOVERNOR, THE STATE OF NEW JERSEY, ON BEHALF OF THE NATIONAL GOVERNORS CONFERENCE

Governor BYRNE. With your permission, Mr. Chairman, I have prepared remarks which I would like to have entered into the record without my reading them.

Under those circumstances I think I can be rather brief.

Senator McCLELLAN. Very well, Governor, your prepared statement that you have submitted to the committee may be printed in the record at this time.

We are glad to welcome you and appreciate your willingness to come and give us the benefit of your understanding and recommendations.

Governor BYRNE. That is mutual.

I come here with portfolio in hand from the National Governors Conference, and I have chaired the National Governors Conference Committee on Crime Reduction and Public Safety. The National Governors Conference passed a resolution at its meeting and passed it unanimously and that sometimes is difficult to do at a National Governors Conference, passed it unanimously supporting the continuance of LEAA.

Senator McCLELLAN. Do you have a copy of that?

Governor BYRNE. I will forward a copy to the committee.

Senator McCLELLAN. When it is received I will direct that it be inserted in the record at the conclusion of your statement. Also, I have a letter from the Arkansas Commission Crime and Law Enforcement, and the Governor of Georgia, the Honorable George Busbee, which I will insert in the record following Governor Byrne's testimony.

TESTIMONY OF GOVERNOR BRENDAN BYRNE

INTRODUCTION

I appreciate this opportunity to contribute to the review of the performance of the Law Enforcement Assistance Administration. Although monies administered under the Omnibus Crime Control and Safe Streets Act of 1968 constitute about 5 per cent of total State and local criminal justice expenditures, their monies have had disproportionate impact. After seven years of significant experimentation and accomplishment in State and local criminal justice systems, LEAA can benefit from oversight and redirection.

The Administration bill, S-2212 (and the companion, H.R. 9236) is an excellent starting point. The proposed five-year extension permits another complete review in an appropriate time period.

The increase in authorized expenditures to \$1.3 billion a year, particularly if accomplished by actual appropriations in excess of the \$800 million a year they have been averaging, will permit the expanded emphasis upon court programs, juvenile justice, high impact cities and community crime prevention that has rightfully been incorporated in the legislation. Congress should, however, recognize the impact of ever rising costs, and forego fixed yearly authorizations and appropriations covering five-year periods.

The increased authority given the Attorney General to oversee LEAA policy and the new advisory committee to help administer LEAA's discretionary funds, have the potential of alleviating the often-apparent problem, even in New Jersey, of LEAA's administering funds in a "shotgun" manner.

The tough decisions needed for planning a criminal justice system have too often been eschewed in favor of small, uncoordinated grants which have been widely dispersed.

In reviewing LEAA's performance to date and in commending the Administration on S-2212 it is important to keep in perspective LEAA's place in the fight against crime.

Social unrest and economic deprivation, although never excuses for crime or criminals, are demonstrated stimulants of increased crime. So long as the administration permits unemployment to continue at 9 per cent nationally and 18 per cent in New Jersey, even a utopian criminal justice system will not guarantee citizens their right to be secure. In their homes and businesses and schools, on the streets, or in the parks. If an improved LEAA is to give rise to more than academic dissertations examining various pilot projects, then an improved state of the economy must go hand in hand.

Several cautions and issues should be considered, however, before S-2212 is enacted.

RESIST FURTHER CATEGORIZATION OF GRANTS

LEAA has administrative guidelines which limit State planning agencies and States in the use of LEAA funds. Such guidelines are necessary if LEAA is to exert any national leadership with regard to criminal justice priorities, a function I think appropriate, although as I will discuss below, neglected.

The Congress should resist the temptation to increase categorization or to earmark funds, however. As LEAA funded efforts to implement the comprehensive recommendations of the National Advisory Commission on criminal justice standards and goals illustrate, each State is unique and within certain wide parameters has its own valid approach toward administration of a criminal justice system, and its own valid standard of success in achieving certain goals.

One example of the pressure toward increased categorization is H.R. 8967, introduced by New Jersey's esteemed chairman Peter Rodino. As a former judge, I appreciate that in the past seven years the judiciary has been shortchanged in terms of LEAA funding. But to earmark 30 per cent of State block grants for court-improvement programs may be too facile an answer for all 50 States.

An example of categorization in the existing act that should be eliminated concerns part C block grant funds, not more than one-third of which may be utilized to compensate law enforcement personnel. Not only are many effective programs labor intensive, requiring more than one-third personnel costs, but in addition the existing restriction encourages shopping list "planning."

RETAIN AUTHORITY AT STATE LEVEL

Governors retain significant authority over, and exercise considerable policy input into, State planning agency activities. At least in New Jersey, State planning agency's funds except for LEAA discretionary funds are given scrutiny within the State's budgetary process.

Under the reauthorization bill, the governors would and should retain such authority.

I make this suggestion not because I am a governor, as opposed to a mayor or county executive. I make it because what the criminal justice system needs most is comprehensive planning. Individual grant decisions are fragmenting enough as is, with most monies expended on the local level in any event. Most

governors have significant control over the criminal justice systems in their State.

MORE EMPHASIS ON COMPREHENSIVE PLANNING

All too often in the past, LEAA activities and attendant controversy, and State planning agency activities, have focused upon levels of funding or individual grant decisions, rather than upon comprehensive criminal justice planning. New Jersey is no exception. After 200 years, let alone the seven LEAA has been extant, the criminal justice system both within individual States and among the several States lacks adequate standards and goals.

One solution is for LEAA, in the next five years even more than in the last seven, to increase its inducement to States to evaluate and implement the work of the National Advisory Commission on criminal justice standards and goals. The mandate of the 1973 amendments along this line has yet to be implemented fully.

A second solution is to hold more frequent conclaves of the governing boards of each State planning agency to analyze not individual grant applications, but instead broader policy issues such as how can the State's criminal code be updated, how can the State's parole system be made more fair and effective, how can the State's standards for selecting and training police be more job related.

It must always be kept in mind that LEAA is designed to fund pilot projects, on the State level we must always step back—even before the three-year cut-off date—to ask what has been learned, and to utilize that learning throughout the State and in making future grant decisions.

Similarly, the newly proposed LEAA advisory committee will help LEAA nationally, in clarifying its objectives in advance of administering discretionary funds. Criticism of LEAA to the effect that despite 80,000 pilot projects, crime has been increasing, is well taken to the extent that it highlights a lack of assessment on LEAA's part. The "marketplace" assessment accomplished by a State's assuming or not assuming a pilot project after three or four years does not suffice. Effective pilots should be implemented widely, not piloted again. Ineffective pilots should be abandoned, locally and nationally.

We must all be more rigorous in defining our criminal justice goals, evaluating whether we are achieving them and pruning our failures. The national LEAA administrators must be particularly rigorous if they are to exercise leadership with regard to crises of national dimension.

ADMINISTRATION OF LEAA

This committee might inquire whether LEAA's administrative structure is unwieldy. Those who deal with LEAA on a daily basis—and not just in my own State—can chronicle examples of indecision between the regional office and the Washington office on given issues, as well as examples of varying interpretations and directives emanating from the 10 regional offices. The staff of this committee should be able to propose streamlining so as to reduce the type of delay and indirection that frustrates all of us, at one time or another. As a by-product, LEAA's ability to exert national leadership should improve.

CONCLUSION

In conclusion, I support S-2212 substantially as drafted. I urge this committee to resist pressures to categorize further LEAA grants to States, or to take policy setting or grant making authority from the State level. I suggest an increased emphasis by LEAA and the State planning agencies upon comprehensive planning as opposed to individual grant decisions, and increased leadership by LEAA in identifying priorities and evaluating progress in meeting them.

In New Jersey, LEAA funds have helped provide a criminal justice planning capability; expand criminal laboratory facilities; modernize police communications; computerize accurate, sophisticated offender-focused data; expand social services throughout the corrections system; support group homes for juveniles in need of supervision; streamline court administration.

The States are and will be in continued need of such assistance if efforts to combat crime are to have any chance of success.

Thank you.

NATIONAL GOVERNORS' CONFERENCE,
Washington, D.C., October 10, 1975.

HON. JOHN L. McCLELLAN,
Chairman, Senate Committee on the Judiciary, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for giving the National Governors' Conference an opportunity to appear before your Committee in support of the continuation of the Law Enforcement Assistance Administration program.

Governor Byrne asked that I give the Committee a copy of the Governors' resolution in regard to LEAA. The position of the National Governors' Conference supports the program as proposed in S. 2212.

Most sincerely,

JAMES L. MARTIN,
Director,
State-Federal Affairs.

Enclosures.

CRIME REDUCTION AND PUBLIC SAFETY

A-1.—ADMINISTRATION AND IMPLEMENTATION OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT

The National Governors' Conference commends the Law Enforcement Assistance Administration for its extensive and helpful cooperation with the States in implementing the Omnibus Crime Control and Safe Streets Act of 1968 as amended by the Crime Control Act of 1973. Its actions in fostering the development of qualified staff at the state level, providing wide latitude to the States in developing plans for improving the entire criminal justice system, promoting a spirit of cooperation between the various criminal justice disciplines, and generally supporting the state partnership required in a block grant program set an outstanding example that could well be emulated by other federal departments.

Therefore, the Conference expressly reaffirms its confidence in the LEAA program and urges Congress to form a partnership with the Governors in working to strengthen the LEAA to assure effective intergovernmental action to deal with one of the nation's most serious domestic problems.

The Conference is concerned that proposed reductions in the budget for the programs of the LEAA may adversely affect the progress that has been made in improving law enforcement and reforming the criminal justice system. Thus, the Conference urges restoration of the reductions and appropriation of the full amount authorized by Congress in the Crime Control Act of 1973.

A-2.—STATE-CITY COOPERATION

The National Governors' Conference restates and re-emphasizes its commitment to vigorous and effective action to control the burgeoning crime problems in the urban areas of our States. Recognizing that the plague of crime knows no jurisdictional boundaries, the Governors pledge their active support to the comprehensive planning and intergovernmental action called for in the Omnibus Crime Control Act of 1968. The Governors are firmly committed to the need for a working partnership with elected and other policy-making officials in the counties and municipalities of our States to accelerate efforts in developing comprehensive metropolitan crime control programs and facilities.

The Conference recognizes the need and shares the concern of large cities and counties for additional crime control funds. The States are responding to this need by continuing to make additional block grant funds available to cities and counties through the state planning agencies.

STATE OF ARKANSAS,
OFFICE OF THE GOVERNOR,
COMMISSION ON CRIME AND LAW ENFORCEMENT,
Little Rock, Ark., September 30, 1975.

HON. JOHN McCLELLAN,
Senator of Arkansas,
Dirksen Office Bldg., Washington, D.C.

DEAR SENATOR McCLELLAN: Although I have been directly involved with the Law Enforcement Assistance Administration for a relatively short time, I believe there are very beneficial effects from their efforts and from the federal

funds that have become available to improve the criminal justice system. The benefits are difficult to measure and certainly are not currently reflected in the overall crime index. The Omnibus Crime Control and Safe Streets Act of 1968 and the Crime Control Act of 1973 have contributed, however, to a better quality of criminal justice in Arkansas. Basically, Arkansans have derived two important things from these Acts: the opportunity to improve and the encouragement to do more than the status quo in providing better law enforcement, adjudication and incarceration.

Many of our officials had the desire to improve their situations, but the opportunities, primarily money, had not been provided by either local or state government. The LEAA funds encouraged improvements through additional personnel, increased training and educational efforts and better facilities for the police departments, courts and the Department of Correction.

More specifically, prior to 1967, the Arkansas Law Enforcement Training Academy had not received the level of funds needed to provide basic and advanced training for all local police in our state. Today that problem has been remedied with a facility which is able to keep up with the demand. Judges received very little, if any, continuing education. Today all Arkansas judges can attend various out-of-state programs and many in-state programs that are conducted by the Arkansas Judicial Department and the Arkansas Bar Association. The federal courts in Arkansas began ruling on the inadequate housing and conditions at both Cummins and Tucker correctional facilities. LEAA funds made it possible for these institutions to comply with many of the court's guidelines for better housing and facilities.

We are now beginning to develop criminal justice standards and goals for Arkansas. This is an effort which I believe will help us direct more attention to crime prevention and increased citizen participation. Citizens and officials throughout the state are assisting this office in preparing the standards and goals and we believe that this effort will greatly improve the capabilities of the state and local criminal justice system.

It is possible that the efforts so far and the monies spent have provided a new and necessary base and from this improved basic position, major efforts can now be directed toward the real problem—crime prevention. It is to this end that our energies are directed.

We appreciate your continuing interest in this national problem and we are grateful for the many benefits that have accrued to Arkansas through the LEAA program.

Sincerely,

GERALD W. JOHNSON,
Executive Director.

OFFICE OF THE GOVERNOR,
Atlanta, Ga., October 1, 1975.

HON. JAMES O. EASTLAND,
U.S. Senator, Chairman, Committee on the Judiciary, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: I am writing to urge you to support the reenactment of the Law Enforcement Assistance Administration legislation in its current block grant form.

The LEAA block grant concept has been a major improvement in the federal domestic grant-in-aid process. It has meant decision making on criminal justice policies and expenditures has remained at the level of government vested with responsibility for it by the Constitution, namely the State. The concept of statewide planning and control allows for greater local and citizen participation in the LEAA program than would be possible under a categorical program.

The Crime Control Act already contains several grants which ensure that large cities receive their equitable share of LEAA funds. In my opinion, to provide direct federal to local LEAA funding for cities would subvert the entire block grant program which originally evolved out of dissatisfaction with direct federal categorical grants to local governments. The coordination and planning functions currently performed by the Criminal Justice State Planning Agencies would be rendered almost meaningless if big cities were exempted from their purview.

Therefore, I strongly urge that the Crime Control Act of 1973 be reenacted in its present block grant form.

Sincerely,

GEORGE BUSBEE,
Governor.

Governor BYRNE. Also in my tenure as Governor, I don't think I have yet come to Washington in support of an administration bill. So today marks the first time. I do support the continuance of LEAA.

Senator McCLELLAN. You are laying politics aside then?

Governor BYRNE. I think when they are right, you have got to tell them they are right. I know that has been your philosophy in the field of law enforcement where, Senator, your concern has been well known. I have followed your leadership in my years, my decade as a prosecutor and my several years as a trial judge.

The Governors Conference has supported this. It supports it in the basic concept of giving the maximum latitude to the States. With respect to Senator Kennedy's examination of the attorney general I might say that I do not think that any implicit criticism, to the extent that it was valid, has to do with the structure of the LEAA but rather with surveillance or management deficiencies that may or may not exist.

So I don't think that those objections constitute a reason for rejecting a continuance of LEAA.

Senator McCLELLAN. Do you favor the 2 or 5 years program extension?

Governor BYRNE. I had a few seconds with Senator Kennedy as he left. He apologized to me for having to be elsewhere. I said. Senator, I am going to challenge your two year suggestion and I think he understands that. The reason I challenge that 2-year concept is that we in the States dealing with these LEAA grants have got to make certain judgments for ourselves.

First we have to make a judgment as to where and how to spend the money. Incidentally with respect to State responsibility, I don't know what the experience is in every State but I know that in New Jersey for every \$9 worth of LEAA money we spend, we have to match and raise \$1 in New Jersey.

I want to assure this committee it is tougher to raise \$1 in New Jersey than it is to raise \$9 in Washington. So we do watch very carefully what projects we commit ourselves to in the state and try to get our money's worth, and your money's worth, from these projects.

In going into a project—and we have this problem here and in other areas—in going into a project where we anticipate LEAA support, if we all as Governors went back to our States with an LEAA authorization that extended 2 years instead of 5 years—if we did that we would have to examine the projects in terms of the risk that the LEAA money would only last 2 years and then the State would have to either terminate or fund with State money.

That becomes a significant problem in State government. We have that problem now with the proposal on the rails where a proposal would suggest that there would be Federal money available for a very short period of time for the states to subsidize rail systems which are not picked up by Congress.

If we have to look at programs with some danger that LEAA will terminate in 2 years or at least with the suggestion that Congress has not authorized it beyond 2 years—

Senator McCLELLAN. In other words, if it is going to be limited to 2 years, you cannot rely on it and be certain that LEAA would be renewed or continued?

Governor BYRNE. Exactly right. I think that is more than a theoretical concern of any State government. I also would like to make one other observation and that is with respect to the direction and flexibility of the grants to the states.

The Governors I don't think get any particular sense of power or authority by having the grants come into the states and having the judgment made at the state level basically by a State administration. We don't get any credit for the grants.

I think in my State we have a body which evaluates applications and which makes grants. That body has been in existence since the late 1960's through three different Governors and there has been no suggestion of political manipulation of that kind of committee.

But I do think at the State level we see the overall State problem and we can make a judgment as impartially as can be made at the State level as to where to fund and what the relative merits of projects are and hopefully take projects on a regional or statewide basis where that is possible.

Second, I think that the maximum flexibility ought to be allowed in those grants because different States in different areas have different priorities in their view of law enforcement and ways of attacking law enforcement.

In my State the problems are vastly different from the Salem County in the south to the city of Newark in the north. They are different in so many respects it would take a long time to outline them. So I do think that maximum discretion at the State level and in the executive is a meritorious approach to the problem.

Finally I agree with what seems to be the observation in the committee and of the other witnesses that you cannot abandon this program because we cannot show you that there are fewer crimes today than there were yesterday.

In New Jersey every year we spray for mosquitoes and every year in New Jersey we have mosquitoes. But we continue to spray for those mosquitoes.

We have crime in New Jersey and we hope to continue spraying in that area, too. Thank you.

Senator McCLELLAN. Thank you very much, Governor.

Senator Hruska?

Senator McCLELLAN. Our next witness is Mr. Cal Ledbetter. constructive statement. I am glad you are bringing us news from the National Conference of Governors. We welcome that resolution.

Senator McCLELLAN. Our next witness is Mr. Cal Ledbetter.

Mr. Ledbetter is a State representative in Arkansas. He represents a large part of the Capital City in our State and has for a number of years.

Cal, we welcome you. We appreciate your willingness to come and testify before the committee today.

STATEMENT OF HON. CAL LEDBETTER, A MEMBER OF THE ARKANSAS HOUSE OF REPRESENTATIVES, ON BEHALF OF THE NATIONAL CONFERENCE OF STATE LEGISLATURES

Mr. LEDBETTER. Thank you, Senator McClellan.

If I can have this written statement inserted in the record at this point, Mr. Chairman, I would appreciate it very much.

Senator McCLELLAN. If you wish to read it, Mr. Ledbetter, it is all right.

Mr. LEDBETTER. This is the first time I have ever testified before Congress and I am deeply honored. I do represent the National Conference of State Legislatures which consists of about 7,600 State legislators. I think my own judgment is that overall LEAA has been a success. I think that State legislators view LEAA programs as having vital importance to their states and they endorse the block grant approach of the current act.

States have proven their ability to handle these block grants and to handle them well in the LEAA programs. I would urge Congress to renew this program for another 5 years.

You may recall, in Arkansas, I would say due to LEAA, we have such things as a new criminal code, a juvenile code, a public defender system, minimum training standards for policemen, a law enforcement training academy in Camden, and hundreds of policemen going to college in Arkansas. Much of this has been made possible by LEAA and the Arkansas Commission on Crime and Law Enforcement.

I do want to state the policy position of the Intergovernmental Relations Committee of the National Conference of State Legislatures concerning the matter before you today. Our recommendations I hope will improve the Safe Streets Act.

From what I have heard here today, everyone is in agreement that programs and policies to reduce crime should be determined at the State and local level. But when we say State and local level, to me, that means the Governor, the State planning agency and the State legislature.

The problem is that the current act when it refers to the State and local level means only the Governor and the State planning agency. I suppose the thrust of our policy recommendation is that we don't think that programs under the act can be fully effective unless the State legislature is more involved.

I think certain provisions of the act makes meaningful action by the State legislature very difficult.

For example, under sections 202 and 203 of the act, the State planning agency is responsible only to the Governor. Certainly the Governor needs to play a role but there is such a thing as separation of powers. The State legislature also needs to play a role. In fact, it should be a joint role—the kind of joint role that both branches normally play when an executive agency is created.

Certainly at the Federal level when you create an executive agency you reserve to yourself meaningful oversight responsibility and fiscal control. It is not quite that way in terms of State planning agencies and LEAA programs. Federal funds are allocated to a State agency that is outside the control of the State legislature.

The Governor is given the power to create programs without legislative control. The only role the State legislature plays is to provide matching funds. In our opinion the program should be like any other program the Governor desires.

The Governor should submit the program and its budget to us for our approval. Just like you gentlemen require that when the President has a new program, he must submit it to you for your approval.

I would hope that the State planning agency would be like any other executive agency and that the Crime Control Act would not preclude a State legislature from exercising its normal fiscal and oversight responsibility if it chooses.

In Arkansas we have a classic example of what the present act forces States to do. We have developed a procedure in the legislature for reviewing LEAA grants. The procedure is effective but very awkward because of the very stringent provisions of the act.

The Arkansas Commission on Crime and Law Enforcement will approve a grant. Then they submit the grant to the chief fiscal officer of the State. He is appointed by the Governor and is responsible to the Governor. He has to approve the use of funds which have been appropriated by the legislature for matching purposes.

We have worked out with him an informal, unofficial arrangement where he comes before the Arkansas Legislative Council—an interim legislative body—and asks for our recommendations and advice on specific grants. We give him that advice and recommendation but it is only that.

If he chooses to ignore it, he can do so. The point here is it is a very cumbersome procedure where everyone, in a sense, is playing games. All the legislatures are asking is that if the legislature puts money into a program, it is entitled to some supervision of that program.

I do hope Congress will extend this program for 5 years, but I do think it needs to be recognized that you are no longer dealing with a temporary program that initially had to function autonomously from the Governor's office.

Originally there were no State funds involved. Now there is an established program and State money is involved. The operations of the Crime Control Program should now fit within the normal State constitutional processes. I would make four specific recommendations:

First, State planning agencies should be created by the legislatures and the act should so require.

Second, we would ask for restructuring of sections 202 and 203 so they do not preclude meaningful fiscal policy and oversight responsibility of LEAA programs by the State legislatures.

I would suggest language similar to that found on page 9 of my testimony. It is the same language found in the Revenue Sharing Act and says that if Federal funds are allocated to the States these funds shall be expended in accordance with the same laws and procedures that apply to the States own funds. Third, State planning agencies should include adequate representation of elected officials including State legislators. We do not mean to preclude categories already represented or possible future categories, such as judicial officials, we

merely think State legislators should be there too. Fourth, we support the administration's recommendation that an advisory committee be established by the Attorney General to advise the administrator of LEAA on the spending of discretionary funds.

We hope the committee will possess a broad perspective and it will take adequate representation from the States to accomplish this. Representation from the States should include State legislators.

Senator, that concludes my remarks. I would be glad to answer any questions.

Senator McCLELLAN. Thank you very much.

I don't believe you followed your prepared statement, so I will, with your permission, have your prepared statement inserted in the record at this time.

[The document referred to follows:]

TESTIMONY OF REPRESENTATIVE CAL LEDBETTER, JR., ARKANSAS, CHAIRMAN, CRIMINAL JUSTICE AND CONSUMER AFFAIRS TASK FORCE, INTERGOVERNMENTAL RELATIONS COMMITTEE, NATIONAL CONFERENCE OF STATE LEGISLATURES

Senator McClellan, I would first like to indicate that I appreciate the opportunity to meet with you and the distinguished members of the subcommittee on criminal laws and procedures.

I am here representing the National Conference of State Legislatures which is comprised of the nation's 7,600 State legislators and their staffs from all fifty States. I am chairman of our criminal justice and consumer affairs task force and I'm representing the policy of this task force and our intergovernmental relations committee.

I would like to compliment you and Senator Hruska for the commendable work you have done in establishing the law enforcement assistance administration, and continually improving its legislative mandates, the nation's legislators view the LEAA program as extremely important to their States and to the nation. The rising crime rate clearly points out the need for this program to deal with the serious social problems in our society and to provide for more effective law enforcement, and improvements in our criminal justice system. As an organization representing the states we strongly support the block grant characteristics of the Safe Streets program, a concept which recognizes that law enforcement is primarily a State and local matter, a problem which should then be dealt with at these levels of government. I believe the States have proven their capacity to administer block grants effectively and responsibly and I therefore urge Congress to renew this program for another five years. I know in our own State of Arkansas, Senator, the LEAA program of block grants has helped to provide such things as a new criminal and juvenile code, public defender systems, minimum required standards for policemen and hundreds of policemen attending colleges and receiving college degrees where almost none have before. At the August 1975 meeting of the Intergovernmental Relations Committee of the National Conference of State Legislatures, we adopted a policy position which suggests certain recommendations for improvement in the crime control act. I would like to describe our policy briefly. As I have indicated we agree that the programs and policies needed to effectively reduce crime and improve the criminal justice system should be determined at the State and local levels of government. We do, however, feel that if these programs are to be truly responsive to the needs of the individual States, then the needs of those States should be substantially determined by the elected policy makers of those States. This does not exclude the national assistance which is provided by LEAA nor does it ignore the valuable insight and advice which the State supervisory boards give. However, the point needs to be made that important State policies and programs can seldom be effective unless the legislature is involved. If Congress is serious about making this a State and local program, it should not condone procedures that handicap decision making at the State and local level. To emphasize my point, let me quote views expressed at the time the original Safe Streets act was being considered: Representatives Edward Hutchinson and Charles Wiggins argued that the act. . .

"Strikes at the very root of historical legislative power. The bill before us, substituting federally approved plans for local laws, says to every State legislature and city council: The price of federal assistance is that you give up your control over the division of funds between your local courts and among your local law enforcement agencies."

They further deplored. . . .

"Congressional assent to circumventions of the legislative process . . . such devices weaken the only branch of government whose every member is elected by the people and directly answerable to them. Congress, jealous of legislative prerogative, should be expected to protect the legislative process at all levels of government against executive intrusions. Instead it is found creating the tools whereby State and local legislative bodies may be deprived of the power to determine, in this case, the structural organization of local law enforcement and criminal justice agencies."¹

The Crime Control Act of 1973 in sections 202 and 203 defines a State in effect as a "State planning agency" and makes this State planning agency subject to the jurisdiction of the Governor. Believing I do in our system of separation of powers and checks and balances, this language raises serious questions in my mind about the role of the legislature. By no means am I suggesting that the role of the legislature should be substituted for the Governors role but neither should the role of the legislature be ignored. I am suggesting that the joint role which is normally shared by these two branches of government should not be overlooked in this program. On a number of occasions LEAA's office of general counsel has held that specific statutes of States violate section 203, because they substituted the judgment of the legislature in place of the exclusive jurisdiction of the Governor. In my opinion, this practice seriously undermines the constitutional system of checks and balances, which prevents the exercise of too much power by one branch.

Because federal funds are allocated in a block grant to a State outside the meaningful control of the legislature, the State executive branch is provided with the power to create and operate programs without legislative approval and control, a clear assumption by the executive branch of both legislative and appropriations powers. Currently legislatures can only appropriate the matching State funds for State level programs. The crime control act thus restricts legislatures from having any meaningful impact beyond this very mechanical procedure of appropriating matching funds. It is our opinion that each State ought to be allowed to follow its normal policy making process with this program in a similar fashion to the way it decides on other State programs. In most instances this would involve the submission of programs and budgets by the Governor to the legislature for its approval, modification or disapproval. The supervisory board and its staff would then play the same role in their State as any other executive board or staff. I am not suggesting that the crime control act specify any given procedures for all the States, rather I am suggesting that the crime control act should not preclude a legislature from exercising its normal fiscal and oversight role if it so chooses. In some States this might even involve the inclusion of federal funds within the State appropriations process whereby the legislature could allocate those funds for crime control programs consistent with that State's priorities. In fact at the present time several State legislatures are considering this approach and such an approach is already a fact in Michigan since Michigan statutes specifically require that the Michigan legislature appropriate all federal funds prior to their expenditure on the State level. In Michigan the legislature is therefore clearly regarded as the basic policy setting institution for all programs in the State and, as such, it has both the authority and responsibility to provide for the allocation of financial resources, regardless of the source of those funds. I assume that by using this appropriations process, the Michigan legislature is simply trying to assert some legislative control over its State priorities.

Senator McClellan, the legislature in our State of Arkansas does involve itself with the crime control program. While our process has been effective it is also a very awkward procedure which was necessitated by these restrictions of the crime control act. After the Arkansas commission on crime and law enforcement approves a grant, that grant is then submitted to the chief fiscal officer of the

¹ U.S. Congress, House, Committee on the Judiciary, Law Enforcement and Criminal Justice Assistance Act of 1967, Report No. 488 to Accompany H.R. 5037 90th Congress, 1st session 1967, pp. 41-43.

State, who is the disbursing officer of the State, and he approves the use of funds appropriated for State matching purpose. The chief fiscal officer of the State who needless to say is responsible to the Governor must determine that the disbursement of State matching funds is necessary and required for respect to the grant. Under a procedure worked out last year, he submits his recommendation to the Arkansas legislative council for its advice. The Arkansas legislative council is a 30-member joint interim committee of the Arkansas general assembly, having responsibility for continuous review of State fiscal matters. The legislative council reviews these grants and submits its recommendations to the chief fiscal officer of the State, and the chief fiscal officer of the State relies on these recommendations in making his decision but it should be stressed that it is his decision and the legislature offers only advice. Surprisingly enough, this procedure has worked, but it is cumbersome and unnecessary if the crime control act would not restrict all meaningful decisions to the executive branch of government. It should also be recognized that while this procedure works in Arkansas not all States would or could utilize such a mechanism.

Mr. Chairman, I'm sure you are well aware of the current debate over the need to tighten control of this entire program. I think that if Congress extends this program for another five years, which I hope it will, Congress should also recognize that we are no longer dealing with a temporary program which can or should function autonomously out of the Governors office. The program ought to be responsive to the elected representatives of the people at both the State and local levels of government.

Mr. Chairman, in conclusion, I would like to make some recommendations to you and the subcommittee which we feel will bring about better coordination between the State crime control programs and the State legislatures. First, I think the crime control act should require that State planning agencies must be created by the legislature as they have been in many, but not all States. Second, and most important, I think sections 202 and 203 of the crime control act should be restructured so as not to preclude meaningful policy, fiscal and oversight responsibilities of the LEAA program by State legislatures. The subcommittee might be interested in examining the State and local fiscal assistance act of 1972, P.L. 92-512, commonly referred to as the Revenue Sharing act, and specifically title 1 section 123(a) (4) which specifies that (States and local governments will) establish procedures to the satisfaction of the secretary (specifying) that:

(1) It will provide for the expenditure of amounts received under subtitle A only in accordance with the laws and procedures applicable to the expenditure of its own (State) revenues.

Congress has in this instance a federal program providing assistance to States and localities and has clearly indicated that the procedures normally utilized by those units of government in making final policy and fiscal decisions should also be followed with respect to this program. Third, the State planning agency supervisory board ought to include an adequate representation of general elected officials including State legislators. This is not meant to preclude categories already represented on the supervisory boards or to preclude representation of other affected groups such as judicial officials. Finally, I would like to support the administration's recommendation to establish an advisory committee by the attorney general to advise the administrator of LEAA on the expenditure of discretionary funds. It is our opinion that in order for this committee to possess the broad perspective which is necessary to review the national LEAA program, this committee ought to include amongst its membership adequate representation from the States including state legislators.

Mr. Chairman, once again I want to thank you for this opportunity to testify before you. This concludes my prepared remarks and I will now be happy to respond to any questions.

Senator McCLELLAN. I would like to ask you, Cal, whether Arkansas, by reason of the support and funds granted by the LEAA, has received any permanent benefits from it that you can identify?

Mr. LEBBETTER. Yes, sir. I would say enormous benefits have come to Arkansas from the LEAA program. In the year 1968, we had no law enforcement training academy. Now in Arkansas anybody who

has the general power of law enforcement must go through the law enforcement training academy and take an 8-week basic course.

Senator McCLELLAN. It helped us establish a law enforcement academy?

Mr. LEDBETTER. Yes, sir. Also prior to the Safe Streets Act, we had no college courses of any kind for policemen. Today we have 15 colleges that offer courses in law enforcement and criminal justice.

As you know, Senator, it is embarrassing but our correctional system in Arkansas was in a very deplorable state. As a matter of fact, some of the courts had declared the Arkansas system unconstitutional and in violation of the eighth amendment. Today, because of improvements in physical facilities and more trained personnel made possible in part through LEAA funds, the Arkansas correctional system is vastly improved.

I would say our correctional system has improved enormously because of LEAA funds.

Senator McCLELLAN. So we have received permanent benefits from it. Do you wish to comment on whether it has actually contributed to reducing lawlessness in any way?

Mr. LEDBETTER. That is very difficult to measure but over the long run I think it will. Certainly when you take a policeman and give him a better training, it's bound to make a difference eventually.

Over the short term I think it is difficult to measure.

Senator McCLELLAN. Do we have better-trained police in Arkansas today than we would have had except for LEAA?

Mr. LEDBETTER. Yes, sir, without a doubt.

Senator McCLELLAN. Do we have better equipment, better facilities in Arkansas today than we would have had except for LEAA?

Mr. LEDBETTER. Yes, sir, there is no question about that. The community correctional center in Little Rock is one of the most modern institutions in the country. It was financed by LEAA.

Senator McCLELLAN. So there are actual material benefits from it?

Mr. LEDBETTER. Very tangible benefits.

Senator McCLELLAN. Let me ask you about another issue apparently being raised with respect to this agency. Should we continue LEAA for 2 years or for 5 years, which do you prefer?

Mr. LEDBETTER. The 5-year continuation makes planning much easier; 5 years would be better in my judgment.

Senator McCLELLAN. You would oppose abolition of LEAA?

Mr. LEDBETTER. Yes, sir.

Senator McCLELLAN. You think that would be a mistake?

Mr. LEDBETTER. Yes, sir. This is not just my opinion but also the policy of the National Conference of State Legislatures, that LEAA be continued.

Senator McCLELLAN. Senator Hruska?

Senator HRUSKA. Has the legislature of Arkansas the power to govern the moneys that come from LEAA through the appropriations process?

Mr. LEDBETTER. Only in a restricted sense, Senator. We did write the counsel for LEAA and he said that the legislature could veto

specific grants but if the veto involved any interference with a comprehensive State plan developed by the State planning agency, it would not be legal.

Senator HRUSKA. Has it the power to do that or has it not?

Mr. LEDBETTER. If the SPA came in and its comprehensive plan approved by LEAA said we should spend 30 percent of all our LEAA funds on corrections and 20 percent in the juvenile area, the State legislature has no power to change that.

Senator HRUSKA. In the formation of this act, we originally started with language which required that the State planning agency be created by the legislature.

Mr. LEDBETTER. I think that would be very wise.

Senator HRUSKA. Because some States could not act quickly enough or were not able to arrive at the exact formula for legislative planning, the alternative was set out that if there is no State plan developed by the legislature or the structure for a State planning agency developed by the legislature, in that event, the Governor could create a State planning agency by executive order.

It is my understanding that anytime the State legislature wants to proceed by way of legislation to create a planning agency or to subject the grants to legislative appropriations, like Michigan did, they are free to do so. Do you have that same thinking or do you have a different idea on it?

Mr. LEDBETTER. I think it is a grey area. I would like it clarified. We can veto specific programs but if we get into the area of general funding categories such as 10 percent for courts, 20 percent for police, et cetera, we have no control.

Also if we vetoed 10 or 12 projects rather than 1 or 2, LEAA might say that we have been interfering with the comprehensive plan and therefore acting illegally.

Senator HRUSKA. We appreciate your being here. You come from the field where these plans work. Those points will be discussed during the hearing and the markup of this bill.

Senator McCLELLAN. I apologize for having to go so long today. But I am glad we went on so we could accommodate you.

The committee will stand in recess until October 8, 1975.

[Whereupon, at 12:55 p.m., the subcommittee recessed to reconvene Wednesday, October 8, 1975.]

AMENDMENTS TO TITLE I (LEAA) OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

WEDNESDAY, OCTOBER 8, 1975

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 2228, Dirksen Senate Office Building, Senator Roman Hruska presiding.

Present: Senator Hruska (presiding).

Also present: Paul C. Summitt, chief counsel; Dennis C. Thelen, deputy chief counsel; and Mabel A. Downey, clerk.

Senator HRUSKA. The subcommittee will come to order. Chairman McClellan has been delayed, engaged in official Senate duties elsewhere. He asked me to preside in his place, and I am happy to do so.

In order that the work of the reauthorization and the processing of the subject bills will be able to progress, the hearing will be a continuation of testimony with reference to S. 2212, and other bills to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

There are several related bills. In general they deal with the subject of renewing and extending the authorization of the Law Enforcement Assistance Administration.

Our first witness this morning is the Honorable Slade Gorton, attorney general of the State of Washington. He is the president-elect of the Association of State Attorneys General, am I correct?

Mr. GORTON. Yes.

Senator HRUSKA. And when do you take office?

Mr. GORTON. Next June.

Senator HRUSKA. That is a most highly respected organization, and one to which we turn many times in this committee and in the Congress for information, for advice, and counsel.

You have filed a statement with the committee, Mr. Gorton. You may either read it or highlight it, as you choose. In any event, it will be placed in the record in its full text.

[The prepared statement of Mr. Gorton follows:]

TESTIMONY OF ATTORNEY GENERAL SLADE GORTON, STATE OF WASHINGTON

Mr. Chairman, members of the Committee, I believe that I have been asked to speak today about the LEAA program, its impact and future principally because of my long-term familiarity with the program as chairman of Washington's supervisory board for the last six years. As such, I have been responsible

to my governor for overseeing a program designed to reduce crime and to improve the fairness efficiency and effectiveness of the criminal justice system in Washington State. In addition to chairing the Committee on Law and Justice and serving as state Attorney General for the past seven years, I serve as President-elect of the National Association of Attorneys General and chairman of the Washington State Criminal Justice Training Commission.

With this background of a day-by-day working knowledge of the LEAA program—from 1969 to today—I feel impelled to raise several issues which should be addressed during these hearings to reauthorize the Crime Control Act.

If the Crime Control Act is to be continued through 1981, and I certainly feel that that's an absolute necessity, it is imperative to make some philosophical and structural changes in the administration of the program within the Law Enforcement Assistance Administration.

If we ever hope to reduce crime, to improve the quality and fairness of the criminal justice system, both Congress and the LEAA must recognize that crime problems are state-local problems and that program and spending decisions must be made at those levels. Too often LEAA's goals are neither state-local goals nor even consistent with one another. There are too many federal goals which, as filtered down through the system of federal regional offices, state planning agencies and local units of government, are at cross-purposes with one another.

We need less administration and detailed supervision from the top. State and local officials must be allowed to get directly to the problem. And that problem is crime. Street crime, white collar crime and crimes of violence won't wait while we shuffle endless paper to meet endless deadlines to justify the expenditure of relatively small amounts of money. Can we tell our judges, our law enforcement officers, and our other criminal justice professionals to halt in their tracks while letters, plans, contracts and justifications in five times the standard triplicate are completed, processed and, at best, slowly approved? But it can come to that if the bureaucratic machinery at the top continues on its present course.

This year, to a greater extent than ever before, state planning agencies are frustrated by their inability to make appropriate decisions for their states by reason of the ever-tightening limitations imposed by LEAA. But the frustration runs even deeper. The noose is tightening on state-local flexibility but the noose also is tightening on dollars. The state of Washington has had to manage on the same appropriation of about \$9 million for the past two years. Considering inflation, this means less real money actually is being applied to the crime problem, but if dollars not spent on administration could be applied directly to the crime problem, we could do a far better job with the current level of appropriations—and one far more suited to our own particular set of challenges. A program with more elements of special revenue sharing would be both more effective and more efficient.

Let me give you a few brief examples of our frustrations with the overall LEAA program. Then I'd like to point up some specifics in the area of budgets and appropriations.

A critical area of concern, and a most frustrating one to me, my committee and the planning agency staff lies with LEAA's vacillating approach toward the development and enforcement of the civil rights compliance program. Under existing LEAA rules and regulations, the Equal Employment Opportunity program continues to be ineffective because state and local governments are inhibited from making progress in a positive way. On one hand, LEAA does not allow the state planning agency to set its own rules governing affirmative action; yet, when a state needs federal support to enforce compliance, LEAA opts for a weak, non-controversial position. LEAA should delegate the civil rights compliance program to the states—particularly because each state has unique problems—and should step in only if states fail to exercise their responsibility.

Under Title 28, Subpart E, 42.301 entitled Equal Employment Opportunity Guidelines (issued by LEAA), Washington state has for the past 15 months been asking LEAA to redraft its guidelines to make them workable. For example: LEAA interprets the term "recipient" differently than our state does. LEAA says a "recipient" is the action agency, the ultimate entity receiving funds for individual projects such as a sheriff's department. Under Washington state law, however, a "recipient" is a unit of local government, the political jurisdiction which is our signing authority. This matter is still unresolved today and the EEO program has become a charade. LEAA has told Washington

state that it does not plan to redraft the guidelines because we are far ahead of most other states so that a tightening of the rules could work a hardship on other states. Even if this is so, it is simply a reason to delegate to the states a greater degree of decisionmaking authority.

Another area of our frustration with the decisionmakers in Washington, D.C. is the discretionary grant program. Briefly, this program pours millions of dollars into projects around the nation at the sole discretion of LEAA. At no time is our state planning agency or a local unit of government given an opportunity to integrate these projects into its planning process or long-range program development. Decisions relating to how discretionary money should be spent, state by state, should rest with LEAA's regional offices after thorough coordination with the SPAs. If this grant-award decision were delegated to the proper decision-making level, some of the present discretionary projects wouldn't be in existence today. How on earth can Washington, D.C. decide what's a sound and necessary project for Washington state merely by reading a grant application?

The problem becomes particularly serious as it causes SPAs to lose credibility with local units of government in an area requiring coordinated highly professional planning. After a discretionary grant is awarded at the national level, a state is obliged to administer it. But the SPA never receives financial assistance equivalent to the extra administrative and fiscal tasks required for that administration. Why then does a state SPA sign off on these grants prior to their approval? Simply because no state wants to be put in the position of denying extra funds to local units of government. Cities and counties are in a continuing squeeze for money; to say "no" to additional funds regardless of the merits of the project or its impact on crime, is, as a practical matter, impossible. The administrative load is substantial; ten percent to fifteen percent of all the money now obligated in Washington state is from discretionary grants.

Even when our SPA notes a discrepancy from our regulations on the part of a discretionary grant application, the final grant award almost always comes back without any change, or even acknowledgement of our objection.

Another cause of loss of credibility on the part of state SPAs arises out of categorical programs touted by LEAA such as TASC, Treatment Alternatives to Street Crimes. Recently, LEAA "experts" have come into our state to generate local interest in this program. They have yet to contact the state planning agency or the supervisory board to explain the details of the program or how and why it should be included in our planning process. This hardly contributes to our planning process.

Any discussion of frustrations from the cumbersome LEAA administration must include a reference to guidelines. There are guidelines for everything and they change with the weather. Planning guidelines are the most important, because they are the springboard for state and local planning decisions. Planning guidelines change every year. Because of the frequency of these changes, we spend most of our time reacting to guideline changes rather than in an effective year-round planning process. Usually planning guidelines are published and distributed after state and local fiscal and program decisions have already been made. This works a terrible hardship.

For our 1976 plan, the planning guideline manual M 4100-1D, was issued on March 21 and yet we had to have our completed plan to LEAA on September 30. This meant that all the planning tasks we initiated in January had to be modified, and sometimes reversed, in March so that we could comply with the September 30 submission date. Because the SPA is put in such a reactive situation, the cost of the planning process, with its many modifications, is more than it should be in dollars, time and sheer frustration. This kind of haphazard direction from the top turns an efficient state process into a haphazard one, too. Washington state doesn't plan in a vacuum. We work with local and regional planners and citizen groups to set crime-fighting priorities because we believe that our local agencies and citizens know best what their problems are. This kind of planning process, however, takes time.

We've been told that our 1977 state plan is due on June 30, 1976 but we haven't received the new guidelines. Our planning process must start NOW! If the guidelines change radically, we'll have a lot of problems and the usual grinding frustration. These deadlines are totally unrealistic. If you check all the publication dates of planning guidelines, then check all the deadlines for final plan submissions, you'll find that we've been forced into a horrendous six-month planning cycle instead of the year-long cycle we should have.

One problem which has had a detrimental, lingering effect on the Safe Streets program is the general lack of and continuous change in leadership at the national level. For example, since the passage of the Safe Streets Act in 1968, there have been six attorneys general, two interim acting attorneys general and five LEAA administrators, all in seven years. In addition, the LEAA administrator's chair remained vacant for one year, from June 1970 to May 1971. Naturally, each attorney general and each LEAA administrator has brought his own style to the job and advanced his own priorities. Along with the many leadership changes have gone major reorganizations within the internal structure of LEAA, changes in program emphasis and philosophy, guidelines and program reorientation and the inevitable increase in red tape and related administrative delays.

With the current LEAA administration, most decisions are being made in Washington, D.C. More and more our federal regional office, Region X, which always worked well with us because of close regional ties, fine personnel and respect for our own competence, is being denied decisionmaking authority. In the past, frequently, all we had to do was call the Region X office for a quick solution to a problem. Now most fiscal and program decisions are being bucked up to Washington, D.C., and we have to wait for answers. Lately, it has taken months for action on a particular problem which in the past would have been settled by Region X in a matter of hours or days.

The present Crime Control Act is written in such a way as to allow for far too much centralization on the part of LEAA. If an LEAA administrator decides that state-related decisions will be made on the East Coast, he has the authority to do just that. This type of administration does not protect sound planning concepts on the part of state and local governments encouraged by the Act itself. Changes to enhance that kind of planning should be vital to your work.

Finally, let me return to the problem of money. Far too much of it goes into administration. You find LEAA, certain supervisory activities within the Department of Justice, ten regional LEAA offices and SPAs in every state. Those SPAs, in turn, fund hundreds of regional and local planning agencies—although LEAA reserves almost 40% of the planning appropriation for itself and its regional offices. Nor is it even possible for me to estimate the amount of both planning and action moneys received by the states which go into meeting federal regulations and are thus diverted from attacking the problem of crime. A loosening of those regulations and a strengthening of state and local planning as against LEAA guidelines would, in my opinion, do more toward bringing closer a victory in the war against crime than any other single step the Congress could take. We have substantially decentralized our process in Washington state because we are convinced that specific crime fighting techniques can better be designed and implemented in our states local jurisdictions and regions than they can be in Olympia. By the same measure, we are convinced that we know more about our problems in Washington state than does LEAA here in Washington, D.C.

Washington's Governor's Committee on Law and Justice has learned that we don't do our best job . . . our most effective job . . . when we try to make local decisions about specific projects. What we do best is long-range problem-solving coupled with an expertise in leadership and professional knowledge. What we have been doing is studying and solving statewide issues such as standards and goals, planning, evaluation, legislative matters and community involvement in the criminal justice system itself.

Washington state is going in one direction and the federal government in another. Centralization of authority is the wrong way. We don't need specific direction or "earmarking" of funds. Such limitations force us into an artificial and standard division of resources unrelated to the state's problems, their intensity and priority.

We need to continue the Crime Control Act but we need to wrestle the autocratic, ivory-tower approach to decisionmaking away from LEAA central to the states and communities in which the problems exist. The states will not disappoint you. They'll give you a better program, a more effective program . . . a program which can start solving both short and long-range problems . . . by turning over local decisions to local governments.

In spite of the problems and frustrations I've just outlined, I cannot let this opportunity go by without words of praise for the LEAA program generally. As a result of the State Streets and Crime Control Acts, there is far better communication between criminal justice professionals and among concerned

people in varying jurisdictions. We in the criminal justice field now have the ability to exchange ideas and strategies and then to convert these ideas and strategies into action than ever before. Efforts to coordinate the services of numerous, independent police agencies more closely through the development of county-wide consolidated communication centers have been successful largely because of the LEAA program. In one Washington county, nineteen fragmented units of government have worked together to forge an inter-local agreement providing the best possible law enforcement service possible for the money available. This would not have been possible without LEAA assistance. States also have become actively involved in programs to upgrade all areas of court operations; to develop new concepts in corrections; to delve into the areas of juvenile justice and to undertake valuable community crime prevention programs. These efforts, and the partnership between federal, state and local governments, require continued support if this nation is to attain its goal of a truly responsive and responsible system of criminal justice. We need a true partnership to the job.

STATEMENT OF HON. SLADE GORTON, ATTORNEY GENERAL, STATE OF WASHINGTON; ACCOMPANIED BY KEITH DYSART, NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Mr. GORTON. Thank you, Senator. I do not feel any necessity to read the statement, since you have it before you. I would prefer to highlight it, particularly the points which I consider to be most important.

Senator HRUSKA. You may do so, and as you proceed, if you will indicate where in the statement you are dealing with the subject that you discuss, it will be helpful.

Mr. GORTON. Senator, my name is Slade Gorton, and I am the attorney general of the State of Washington. For the purposes of my testimony here, perhaps my most significant single qualification is that I have been for more than 6 years the chairman of the Washington State Committee on Law and Justice by appointment of the Governor. It is that committee which accepts and adopts a plan for use of LEAA funds in Washington, which supervises various regional planning agencies and which grants money to State agencies for such grants.

There have been significant changes in the way the State of Washington has operated during the course of the last 6 years; but I think the most important point I can make, and that is on page 2 of my testimony, is that the continuation of the Crime Control Act through the early 1980's, at least, is an absolute necessity.

In many respects it has been an extremely successful program in my State. Its most significant successes, I think, have been in the field of causing coordinated planning to take place among various local agencies which are in the same business, such as police and sheriffs' offices, and perhaps even more significantly, between the various professions within the criminal justice system.

In addition, we have greatly improved the ability of our agencies to communicate with one another and significantly improved training programs which the State ran before the Safe Streets Act was originally passed, but which have been greatly expanded by reason of that act.

However, if the Congress is to get its money's worth out of the appropriations made under this act and its successors, I am convinced

that there must be significant philosophical and structural changes in the administration of the program through LEAA itself. We are simply drowning in a sea of paperwork. There are elements within the U.S. Department of Justice, which has general oversight over the program. LEAA, of course, is itself within the Department of Justice. It has a significant number of regional Federal offices.

In our own State, because of the decentralization process, in addition to my committee, we have regional committees and several local agencies in various areas of the State. A combination of the requirements of each of these agencies, together with the centralization of significant decisionmaking authority here in Washington, D.C., has led to extreme frustrations on my part, and on the part of the other citizens of the State who give their time, both on the State committee and on various regional committees.

Let me give you a couple of examples. We would prefer to have the better part of an entire year in order to work on our planning process for a year's worth of money coming from LEAA. Yet, consistently we get guidelines from LEAA substantially after our planning process has started. This last year we had to have our plan to LEAA in Washington, D.C., by September 30. We started that planning program in December or January. But it was not until March 21 that this year's Federal guidelines were actually promulgated by LEAA, causing us to have wasted 2 to 3 month's work, and for all practical purposes to have been required to start again.

Even the present statute authorizing LEAA has a significant amount of the earmarking of the money which is appropriated pursuant to it. It requires certain amounts of money to pass through to local governments. It requires certain amounts for corrections. It, of course, divides specifically money between planning and action grants.

Since each State has a somewhat different system of criminal justice, so this puts each of us into a straightjacket. In our State, during the course of the past 4 years, most training has been shifted from local programs to become State programs, and yet there is no corresponding shift in the amount of—in the percentages of—the money that could be used at State or local levels. The present administration within LEAA has centralized the decision-making process.

Previously, even though we required Federal approval of many of the decisions which we had to make, most of those approvals were made in region X, which is located in Seattle. Customarily, we could get decisions from region X in anywhere from 24 to 48 hours, and even in the case of a very significant decisions, a week.

Now, it is weeks, and sometimes months before we get decisions on particular programs in which we are interested.

I am sorry, I have not kept you up with the pages, but this will begin on page 6.

Another example is the use of the Federal discretionary grants. These grants, which come directly from LEAA to agencies within the State, cost the state planning agency, and very frequently regional planning agencies, a great deal of credibility; literally, in

the case of one significant grant program—we heard about it first in the newspaper.

We cannot plan constructively with our regional agencies when LEAA ignores the recommendations we make on discretionary programs; when LEAA sends, as it does, its own staff into the States directly to discuss with our regional agencies categorical grant programs without even notifying the State committee or the State law and justice planning staff that they are going to be in the State.

These, to summarize, are just a few examples of the nature of the present problem of overadministration. In my opinion it would be far better to move the LEAA program much closer to a special revenue-sharing program than it is at the present time, to give the States and the State planning agencies a far greater degree of discretion over the kinds of grants and over the administration of the grants for the improvement of the system in their State.

Again, an example. When this program first started in the State of Washington, all grant applications came to and had to be approved by the State Committee on Law and Justice. We determined that it was foolish for 25 people sitting in Olympia, Wash., to make determinations on priorities for regions which usually included two or three counties in our State. We simply did not feel that we knew enough about those programs to make such decisions when we compared our knowledge with those of our regional agencies.

For the past 3 years, for these reasons, each of these regions has made its own plans, and once its own plans for a year's activities have been approved by the State, specific grants within those plans, priorities within those plans, are determined by those regional agencies.

Now, if a group of us working out of an agency in Olympia, Wash., are not best situated to determine the priorities of our urban, suburban, and rural counties, certainly no one here, no matter how brilliant, in Washington, D.C., can do that job for us.

We feel, in our State, that these priorities are best set as close to the problem of criminal justice administration as possible. For this reason there should be as little specific earmarking either to units of government or to particular kinds of programs or in connection with divisions between States and their localities. The great virtue of the Federal system in the United States is its diversity, and since no two States are identical, each of the States is best able to make its own determinations.

I would urge you against increasing earmarking and in favor of considerably less earmarking than has been the case in the past; against more centralized administration here in Washington, D.C.; and for the delegation of far more of the decisionmaking authority to the States and to the localities within the States.

Senator HRUSKA. Mr. Gorton, in that respect, the sum of the amendments proposed in S. 2212 by the Department of Justice call for the establishment of an advisory board to review programs for grants under section 306(a)(2). That is the section having to do with the discretionary fund.

On the point that you have just dwelled upon, do you think an advisory board of that kind would be helpful before which to lay forth any shortcomings or any criticisms that might come up, so that there would be an opportunity for them to apply their composite judgment, both structurally, procedurally, and also the fashion in which this is done?

Mr. GORTON. Since it is hard to imagine a worse situation with respect to discretionary grants than that which applies at the present time, such an advisory board, if it was significantly representative of State and local interests, would be advisable. Our frustration is not with the fact that there are discretionary grants. We recognize the need for those grants. Our concern is the fact that they are not related to the State's plans in any respect whatsoever, and that even as we are asked to make comments on them, as we are at the present time, our comments are just ignored. They are not reflected at all.

Senator HRUSKA. Well, do you make application for these discretionary funds?

Mr. GORTON. No, we do not normally make application for them. The applications for the discretionary grants, generally speaking, can come from the organizations which seek to be the recipients of those grants. And you see very frequently those are agencies which have been turned down by their own county planning board, regional planning boards, or State planning boards; and so, they simply go to LEAA. There is no chance to coordinate or significantly to comment on their problems.

I do not think that I want to lay my criticism here on the Administrator of LEAA. It is the system, the present statutory system, which simply does not allow significant contribution by the States into the discretionary grant program in order to coordinate them with the State plans, which is at fault.

Senator HRUSKA. I note in your comments on the difference and the definition of recipient that you say LEAA regards the recipient as the action agency, but under Washington State law, a recipient is a unit of local government. Well, it just so happens that this is an act governed by Federal law. I would imagine, unless you have some reason to believe to the contrary, that inasmuch as LEAA is administering a Federal program, they would look to the Federal definition of recipient.

Now, I do not say that critically. I am just trying to find out. After all, we have to get in agreement and harmony on this if there is going to be any satisfactory progress. Now, for certain purposes would it not be true that an action agency is a recipient within LEAA statutory authority?

Mr. GORTON. There is no question that under some circumstances, it is exactly that. Our problem, in this particular place, has lain with the inability which it creates in us in enforcing civil rights guidelines on anyone effectively.

Senator HRUSKA. And the civil rights guidelines emanate from Federal levels and Federal authority, do they not?

Mr. GORTON. They do.

Senator HRUSKA. Then how can the LEAA—I ask this for information, not rhetorically—how can the LEAA administer and enforce a Federal EEO requirement by referring to and using a State definition for some of its component parts. Where is the bridge?

Mr. GORTON. The LEAA already uses the States for enforcement effectively of its various civil rights statutes. It asks us to come up with an affirmative action plan. We can really enforce that affirmative action plan only on a unit of government with which we relate. The actual signing authority, when LEAA's definition of recipient is different from the person with whom we are dealing, or rather the governmental organization with whom we are dealing—it simply frustrates our ability effectively to enforce any kind of affirmative action.

Senator HRUSKA. Could you give us an example? Suppose there was a discretionary grant made to the Seattle Police Department, and that is the action agency under LEAA definition. Now, under those circumstances tell us how this works.

Mr. GORTON. The way in which the system works, the agency which actually applies for the money is not the Seattle Police Department but the city of Seattle, a political entity. The application is signed by the mayor or by members of the city council. If we are to get a statutory affirmative action program going, we can only go to the city. We have to deal with the city because we cannot deal directly with the so-called action agency, the Seattle Police Department. As long as we have control over the city itself, you see, we can make these conditions apply. But we cannot get past the city and down to the Seattle Police Department, and get this particular case.

Now, the difficulty is not so much with our difference with LEAA as it is to LEAA's indifference to that difference. LEAA has said, in this particular civil rights case, oh well, Washington is doing much better than the other States are, so we cannot change the guidelines or the rules to allow you to do a better job. So what happened with us is, is that since we are not backed up by the LEAA, whose recipient agencies know they really do not have to do anything, and they can make a plan but not cause the plan to be implemented.

Senator HRUSKA. And your view is if the LEAA would channel their efforts and regulations and their complaints to the entities which are really in charge, then they would get better results, rather than going into an isolated component of one of those political subdivisions. Is that the idea?

Mr. GORTON. That is the idea, in part, Senator. But what I am saying goes more to my general philosophical statement than it does to this specific. I am not sure whether the same thing would be true in Nebraska. All we really want LEAA to do, or want you to do in connection with the statute, is to say you must have equal employment opportunities, but let us do it ourselves and to enforce it in the way which we see fit, as long as we do a reasonable job, and not saddle us with artificial definitions which may work somewhere else, but which do not work for this program in our State.

If we could make this determination, in other words, we would be perfectly willing to let other States make different kinds of interpretations.

Senator HRUSKA. Well, of course, you see LEAA is not the creator of all things. It is simply an agency operating pursuant to laws enacted by the Congress.

Mr. GORTON. That is correct.

Senator HRUSKA. And there is such a thing as an Equal Employment Opportunity Commission, and they are constantly pressuring LEAA to do certain things. And, of course, section 518, especially (c)(1) and (c)(2) having to do with that, were particularly included to cover that problem. Accordingly, whenever the Administration determines that a State government or any unit of local general government has failed to comply with section 518 (c)(1) or an applicable regulation, it shall notify the chief executive of the State of the noncompliance, and then request the chief executive to seek their compliance.

If nothing is done in that regard, then they have alternative actions that they must take.

Now, will you comment on that?

Mr. GORTON. That is glorious language, Senator, but it is not the way that it actually happens. We got the original EEO rules and guidelines from LEAA. We had no objection to them whatsoever. We proceeded to attempt to implement them in our State, found that implementation was made more difficult by this particular kind of definitional policy as to against whom we were going to enforce these guidelines, asked for their change in our particular case, and we have effectively gotten the answer from LEAA that because Washington State is so much further ahead of most of the other States, a tightening of the rules would work a hardship on the other States.

Well, as I say, we were not quarreling with the policy which came under the section from which you just quoted. All we are quarreling about is our inability to enforce that policy as strictly as we would like to do so. We seem to be slowed in enforcing this particular civil rights policy by the fact that LEAA has to have uniform guidelines for all of the States.

Senator HRUSKA. Has to have what?

Mr. GORTON. Seems to desire uniform guidelines and rules for all of the States, rather than recognizing our particular problem and our desire to do more than many of the other States have.

Senator HRUSKA. Well, of course they are attempting to draft guidelines for about 54 jurisdictions; when they write regulations they have to find some meaning for all of them. Therein lies the difficulty, or one of their difficulties. Perhaps if you gave them your ideas on it, maybe they could come up with something that would accommodate your situation a little better.

Mr. GORTON. You are precisely correct, Senator, and you have gotten to the central, the focal point of the problem when you say that they have to deal with 54 different jurisdictions, 50 of which are States, of course.

Senator HRUSKA. That is right.

Mr. GORRON. States within a Federal system; and, we are simply subjected here, as we are in a myriad of Federal programs, to the requirement that the States be uniform when, in fact, if we were allowed to experiment more to come up with alternative answers to the same questions, you in the Congress and we in the States would all learn a great deal more than we are able to do under a system which requires this formula.

Senator HRUSKA. I think you have made your point well, and this will be very helpful to the committee and also to the LEAA.

I am sorry to have interrupted you, but I thought at this point in the record, it would be well to comment.

You may proceed.

Mr. GORRON. Unless you have more questions, I am finished with my outline.

Senator HRUSKA. Well, there are other points in the statement, but you do not care to comment on them?

Mr. GORRON. Most of the other points which I make in my statement are illustrations of the point which I have already made.

In our State, in this connection, of course, we agree with the general philosophy of the President and with the national administration that there should be fewer specific Federal guidelines and Federal requirements, more discretion placed in the hands of the States and through the States and their localities to deal with the problem of crime, where it exists, on the streets, in our cities, and in our counties, and throughout our States. We think that LEAA has run a successful program. The criticisms I have made here are specific ones, and they are matters in which we have been limited in doing as good a job as we think we can do. But we do feel the program has been a very valuable one. We feel that it can be more valuable as it moves closer to a system of special revenue sharing.

Senator HRUSKA. Your remarks will be helpful to get at that.

Mr. GORRON. If I may say one other thing, Senator. One of the difficulties, of course, in any program like this is that you are beset by all kinds of interest groups looking to protect their own specific ideas. It is no news to you to know that each of the professions within the criminal justice systems—corrections, courts, police agencies—each of the units of levels of government—the States, the counties and the cities—has its own special axes to grind. In some States, in a Federal system like ours, this system is going to have been more successful than it has been in other ones.

I think that I can commend our own to you as one that has been most cooperative. We have not had tense, continuing fights between the cities and the counties and the State, largely because the counties and cities are so significantly represented on our State Governing Board. The State does the planning using local and regional plans in order to come up with an overall plan, and allows the cities—excuse me, the regional agencies themselves, to make 90 percent of their own priority projects, determining what is most significant for them within their own jurisdictions. To the extent that the regions can do that, they are doing a responsive job. Each of us would like to make it more responsive by being given more authority.

Senator HRUSKA. Now then, Mr. Attorney General, the Department of Justice recently issued regulations pertaining to criminal justice records. Are you familiar in general with their substance and the fact of their existence?

Mr. GORTON. Yes.

Senator HRUSKA. Some concern has been voiced that these regulations have far-reaching policy ramifications and that they convert material that has always been considered public information to restricted information. Have you encountered any reaction in that regard?

I have in mind, for example, the restriction on nonlaw enforcement agencies of government who have traditionally and historically had a statutory necessity to get at some of this information. Some complaints have reached us that the regulations are inhibiting other activities in government.

Have you any comment on that part or on the regulations in general?

Mr. GORTON. I can, but I do not wish to testify at this point as an expert on the subject. I have just been asked, the Governor has just asked my office, to undertake precisely this kind of study for the State of Washington. I have just appointed an advisory committee to do so. It has to work in this area, and of course in the general secrecy and privacy area.

I can say this. I have been the recipient of many objections of just exactly the type which you describe from quasi—law enforcement agencies and nonlaw enforcement agencies about the severity of these restrictions and about the fact that they do, in fact, harm the ability of other governmental agencies to work. I understand that they are being reconsidered by the Department of Justice, and our own State intends to make its comments known on that subject. But I am not really in a position to be specific on it now.

Senator HRUSKA. Well, how soon will your report be made?

Mr. GORTON. By the first of December.

Senator HRUSKA. Could we be favored with a copy of that report?

Mr. GORTON. Yes.

Senator HRUSKA. It would be most helpful.

Let me direct your attention—and I shall not ask you for comment on it now, because you stated a good reason why you do not want to do so—but may I call your attention to section 20.21 of the regulations, and particularly subsections (2) and (5) of subsection (b).

Now, there it has been called to our attention by the Department of Justice that when we said nonlaw enforcement agencies are barred from giving information, that the cited sections and subsections say that the Governor, by Executive order, or the State legislature, by proper enactment, and, of course, the Congress by proper enactment, can enlarge those classes and persons and agencies to whom disclosure may be made of this criminal justice information, notwithstanding the general pattern that was set out in the regulations themselves. And that is for the very purpose of furnishing that flexibility, which all of us know we must have within the State, to do a job.

So, in considering that problem, if you will, do refer to those sections. It will be helpful.

Mr. GORRON. I would be delighted to do so and to comment to you in writing.

Senator HRUSKA. The LEAA is supporting a program dealing with the so-called career program. The older language used to be the "habitual criminal," but now it is the "career criminal," the man who knows nothing else except how to try to make a living by being a criminal.

Do you feel there is a need for efforts in this direction to try to deal particularly and specifically with the prosecution of career criminals as such?

What comment would you have on that?

Maybe you have a State plan that gets into that.

Mr. GORRON. Senator, I do agree that this is a particularly significant area. It becomes all the more significant as the rules about approving the commission of previous crimes, the nature of previous convictions, whether or not the defendant had proper legal advice at the time he was convicted for these previous crimes; that is to say, the proof that he is, in fact, a habitual criminal or a career criminal becomes more difficult.

I do not know what the nature of the specific proposal by the Department of Justice is in this area. I do know that this particular individual is the most difficult to deal with of anyone within the criminal justice system. There is no question but that rehabilitation is more difficult. At the same time, he presents the greatest danger to his fellow citizens.

The general attitude of the public in my State, and I am certain throughout the United States, is that the door should be locked and the key thrown away as far as these people are concerned. If the Department of Justice can help us come up with a program that more effectively protects the public and gives us some opportunity to deal successfully with these people, we would be delighted.

I might say to you that, for example, in our State, the penal institutions are graded—in the sense of at least a beginning of an attempt to separate the kinds of criminals, the more serious from the less serious, the repeaters from the beginners. The highest security institution we have in the State is the State penitentiary in Walla Walla. That penitentiary houses roughly 1,500 prisoners at the present time, which is too many. We are attempting to decentralize the process of corrections within the State.

Just last week the warden of our State penitentiary stated that if he could get rid of 100 of his 1,500 prisoners—these being the people convicted of the most serious crimes—he could run a successful institution; that the difficulties, the importation of narcotics, the disciplinary problems in that institution are caused very disproportionately by 100 out of those 1,500 persons. And to a certain extent, it is these people about which you are speaking. We could do a better job with the others, even more serious criminals, if we had a way of treating them away from serious violators.

Senator HRUSKA. Well, that statement about elimination from society of those hard-core repeaters who are relatively small in

number has been the subject of testimony before us in other hearings. And it confirms what we have observed—that, for example; in the city of Washington, if there could be as many as 10 percent of those who come in and out of the system; if they could be dealt with speedily; and as they are treated in the organized crime control statute of the Federal Government as dangerous special offenders and sentenced accordingly—that would be dealing directly with the danger and imminent problem in an effective manner.

Mr. GORTON. In the present state of our knowledge on human nature, we must recognize the fact that there are some people whom we simply cannot treat.

Senator HRUSKA. They have passed the point of no return.

Mr. GORTON. We just do not know how to deal with them.

Senator HRUSKA. Has the State of Washington implemented any automated systems in conjunction with LEAA to assist you in the management of prosecutorial and court efforts by way of records, convictions, intelligence, and so forth?

Mr. GORTON. Yes, we have begun such systems in the court through what we call our court administrator's office, which is an adjunct of our State supreme court. We have on our ballot next month the complete reformation of our judicial article, which will centralize the administration of our State courts in the State supreme court and will make that kind of program for more effective than it can be at the present time constitutionally.

In our largest county, as well, we have begun such a system in the office of the prosecuting attorney.

Senator HRUSKA. What about the automated part?

Is that part of it?

Mr. GORTON. Yes, that is part of it.

Senator HRUSKA. And that is what you are seeking to get at through this effort?

Mr. GORTON. Yes, and we are able to automate records at present, court records at the present time, through the court administrator's office. The problem is that input of much of the information he needs from lower courts comes on a voluntary rather than a required basis. It is that that the judicial reform article gets at.

Senator HRUSKA. There have been some proposals to further categorize the LEAA program by specifying how certain funds must be spent. An example is the courts area. I can see by the reaction from you and your colleague that you are not a stranger to that idea.

We are caught between two things, are we not? And you have already commented on this, that LEAA is strictly mandated and forbidden from getting into a position of supervision and control and domination of the State and local criminal justice system, and that any time that LEAA loses that characterization and that fact, it will be in for severe Congressional criticism.

But what about these efforts to further categorize the LEAA program?

What do you think about that?

Mr. GORTON. To use that same word, I am unconditionally opposed to them, Senator. I just do not think that there is any possi-

bility of your being able to come up in one central place with a formula which is appropriate for the courts in all states.

Courts are a part of the criminal justice system. They are a vital part. They are an integral part. But they are only a part of it. This system deals with police agencies, with legal agencies, such as prosecutors and public defenders, with corrections, with courts. That must be a part of an overall integrated plan. And once you begin to earmark and say a certain percentage of the money will go into one element of the system, every other element of the system has exactly the same right to ask you to earmark its share.

We have consistently had on our State committee a member or an appointee of the State supreme court. We have always had a superior court judge on the committee. Not every grant request which they have made has automatically been granted.

Senator HRUSKA. Is that the planning committee?

Mr. GORTON. This is the State planning committee. But they have been treated at least equally, from the point of view of their requests, with the other agencies. Not all of the proposals which they make have been totally appropriate, and if you take them out of the planning process effectively by saying that a certain percentage of money will be earmarked for them, you make the States and their local governments less able to attack the problem of crime.

Now, this is what the whole act is about. It is to attack the problem of crime, to do something about it. And if you take one of these professions out and say, well, they are entitled to so much money, you simply significantly lower the ability of the States to do something about the problem which caused this law to be passed in the first place.

I would not earmark money for them, any more than I would earmark a specific percentage of the money for police agencies, or for prosecutors, for example. Each of them is represented in the system which draws the plans for the States, and properly represented. But it should have to, it should be forced to have its ideas and its programs weighed against all of the programs which the State proposes to adopt for the control of crime.

Senator HRUSKA. How is your State planning agency formed? Can you give us a brief description of it?

Mr. GORTON. Yes; under your law, the State Committee on Law and Justice is subject to the Office of the Governor, the highest elected official of the State. The Governor appoints members to serve on it. He can appoint them at his pleasure. In our State, he appoints them for overlapping 2-year terms and allows them to succeed themselves. We, generally speaking, put people off the committee principally for nonattendance.

The statute sets out a specific minimum percentage of governmental officials, of law enforcement officials, and of members of the general public to serve on these committees. I cannot say that I am specifically familiar with these requirements, except that we definitely have met all the minimum guidelines. Our particular State committee includes about 27 members. It includes two persons representing the courts, a very significant number representing cities and counties, a certain number representing State agencies,

and a significant number of unattached citizens. And it is vitally important, Senator, that we keep that percentage of unattached citizens, because so many of the persons representing specific agencies act as inside lobbyists for their own particular agencies that the balance has got to be in the unattached citizens.

In our case, ever since this program has come into existence, the Attorney General—myself—has been, by designation of the Governor, the Chairman of the Committee.

Senator HRUSKA. Well, the Act does provide now, Mr. Attorney General, that these State planning agencies be designated and shall be created or designated by the chief executive of the State and shall be subject to his jurisdiction.

Mr. GORTON. That is correct.

Senator HRUSKA. Now, that is the Governor. We now have one of the bills before us, proposed by the junior Senator from North Carolina, which would broaden that so that it would be the legislature, if it so chooses, which could deal with the creation and the structure of a State planning agency and also have a voice in some of the decisions about the funds that come in from the 85 percent of LEAA appropriations that are designated as block grants.

Are you familiar with that proposal or similar proposals? Has it received any discussion in your association or in your experience?

Mr. GORTON. I have read Senator Morgan's testimony and his proposal came up before a meeting of the executive committee of the National Association of Attorneys General, which I hosted in Olympia about 3 weeks ago.

Senator HRUSKA. What was the consensus?

Mr. GORTON. The consensus of the executive committee of the National Association of Attorneys General was not to support the legislation. I cannot say that that was a unanimous decision. There were some of the attorneys general who feel that they are shunted off to one side in their own States and would have preferred this kind of legislation. But the significant majority of the executive committee was opposed to it, as I am.

I think that it simply adds another political tug-of-war within the States to a system which does not need to be involved in any more political tugs-of-war. The Governor, you have to recognize, is an elected officer; he is the chief executive officer of the State. I think the philosophy of centralizing the control of this program was—

Senator HRUSKA. You are familiar with Senator Morgan's background? He comes from the same profession, of course.

Mr. GORTON. Yes, I know him personally very well. He was a member of our association, of course, until he was elected to the Senate.

Senator HRUSKA. And he described for us the tug-of-war that is going on now between his legislature and the Governor, and it was that which caused him to propose this measure.

Mr. GORTON. That is right.

Senator HRUSKA. Have you any further comment on it?

Mr. GORTON. I think I have to say, in all candor, I am sure this specific issue will come up before the entire membership of the Na-

tional Association of Attorneys General meeting in December. But our executive committee did not wish to endorse that legislation.

Senator HRUSKA. Well, we would be interested also in your report—you do send us periodical reports, and we have a pigeonhole separately reserved for the reports of your association. So would you see that your association sends us a copy of that?

Mr. GORTON. I will do so.

Senator HRUSKA. Do you favor increased funding for a high-crime urban area in your State?

Should these funds go to cities directly, or through the State planning agencies?

Mr. GORTON. I have no hesitancy in saying I believe they should go through the State planning agency. We make our own determinations in our State, for example, of planning funds on a weighted basis, which considers both population and crime statistics. We have tinkered with that formula over a number of years, because, of course, no formula can ever be arrived at which meets with the approval of all of the agencies within the State.

But, again, I am convinced that, given the nature of these State planning agencies, you see, which require a significant amount of local official participatoin; in our case, we have representatives of the city of Seattle; we have representatives of King County, which is our largest metropolitan county, on the State planning Board, in order to make known the views of those entities. It seems to me that that is the kind of priority which must appropriately be left with the States.

Let me give you an example.

Senator HRUSKA. If you will bear with me just a little bit, I have a phone call from a colleague which I must accept.

Let us recess for about 2 minutes.

[A brief recess was taken.]

Senator HRUSKA. The subcommittee will come to order. Thank you for your patience.

You were about to get into some examples on the high-crime areas.

Mr. GORTON. Yes. Your last question related to whether or not there should be specific earmarking to urban areas with particularly large crime rates.

Senator HRUSKA. Well, really, my question was should there be increased funding for them.

Mr. GORTON. We could, of course, be very happy to have increased funding, if it were not earmarked within the States to specific areas.

My answer to this, really, is quite similar to the question you raised about the courts. I believe that by taking an overall statewide approach, statewide in nature, each of the States is best able to deal with the problems of crime within that specific State, that if local governments within that State were guaranteed certain minimums, and particularly if they are guaranteed preferential treatment on the part of funds, then their plans will not have to stand the scrutiny of being related with the plans of other metropolitan areas and nonmetropolitan areas within the State.

The significance of the present system is that the plan must be statewide in scope, and that the quality of the plan in one area is weighed against the quality of the plan of another area. And each of the regions learns from that plan.

For example—and this was the example I was getting to when you were leaving—the definition of what is either high-crime or metropolitan area does not necessarily meet some of the peculiar problems of particular States. We are a border State; we border on Canada. We have a small town of 1,500 or so people, named Blaine, which is the principal port of entry between British Columbia and the State of Washington.

Neither the county in which Blaine is located nor Blaine itself can be, by the wildest description, called a metropolitan area. Yet its law enforcement problems are overwhelming. British Columbia does not allow the sale of liquor on Sundays, and every Blaine tavern is filled with Canadians, creating law enforcement problems for that town.

By dealing with regions, of which Blaine is, of course, one part, we are able at the State level to recognize the peculiar problem of particular units of local government within a State in a way which could never be run into a statutory definition which would be applicable to all States and to all metropolitan areas.

Again, there is no city that does not feel that it could do a better job, no metropolitan area that does not feel that it could do a better job if it had more money. Each of the States feels exactly the same way, Senator. But, given a specific level of appropriation, the best way in which that appropriation can be used in each State is to be used to implement a statewide plan, all of the elements of which have to go through exactly the same degree of scrutiny as do all of the other elements.

Senator HRUSKA. There is a proposed amendment in the bill of section 306(a)(2), in which it provides: "15 percent of such funds, plus an additional amount made available by virtue of the application of the provisions of section 305 and 509"—those are the discretionary funds—"of this title to the grant of any State."

The words the amendment would add are these, at that point:

Plus any additional amounts that may be authorized to provide funding to areas characterized by both high crime incidence and high law enforcement and criminal justice activity may, in the discretion of the Administration, be allocated among the states for state planning agencies, units of general government, combination of such units and on the terms and conditions that the Administration determines is consistent with this title.

In other words, no longer is it limited to urban areas. It is an area where there is high crime—so Blaine would fit in that, would it not?

Mr. GORTON. That is certainly a preferable way of getting at the problem to which the amendment is directed, using census tract definitions or requiring specific percentages of the State plans to pass through it, yes. I am not familiar with that specific amendment, Senator, but it seems to me that there is a good deal to be said for it.

Senator HRUSKA. Would you be kind enough to make a note of that? It is in S. 2212 on page 2; it is subsection (3) on that page.

If you have any additional comment on it, if you will favor us with a letter or a memorandum on it, we would be grateful.

Mr. GORRON. I can do that promptly.

Senator HRUSKA. Now, let me ask you this. The State of Washington is currently involved in the development of a law enforcement and criminal justice standards and goals code of some kind. I imagine that is based upon the standards and goals of the National Commission's report, and that it is a follow-on from that.

Mr. GORRON. It is.

Senator HRUSKA. How do you feel about the thrust and the value of that national report, and also of the type of effort you are now making within the State of Washington?

Mr. GORRON. I think that the program in which we are engaged is central to appropriate improvements in our criminal justice system. You asked me a few moments ago to outline the structure of our State committee on Law and Justice, and I did. I told you we had some 25 members and how they were appointed.

Each of those members has been required to choose membership on one of two subcommittees, only two subcommittees, one of which deals with the development each year of our State plan, the other of which deals with the standards and goals project for the State for the future. So roughly 12 of the members of my committee are on a subcommittee on standards and goals.

To that committee, we have added another 12 people so that it is a 24- or 25-member subcommittee, again, trying to get experts from the criminal justice profession and citizen involvement as widely distributed throughout the State as we can. The sole charge of that subcommittee is beginning with the National Report on Criminal Justice Standards and Goals, to apply that and such other standards and goals as they deem appropriate to the State of Washington, to attempt to get them included in our State plan, to the extent that that is appropriate, to lobby for changes in legislation where that is appropriate, to deal with particular criminal justice agencies on an informal basis, where that is important.

The point is, that by having half of the members of our parent committee on that subcommittee, we practically insure that its recommendations will be accepted by the State Committee on Law and Justice and, for that matter, by the Governor, and will, in fact, become our standards and goals.

In my opinion, it is probably the most important single element of what we do through our State law and justice program. That is, perhaps, a wrong characterization, because, of course, we do need the annual statewide plan. But I think it is a good structure, and we have certainly been helped in moving in this direction by the work of the National Commission on Standards and Goals.

Senator HRUSKA. Well, my personal observation of the work and the structure of the National Commission on Standards and Goals is nothing but the highest, because it is an exercise in self-restraint to a great degree. At no time did any Federal agency seek to impress upon that commission any of its predilections or preferences or biases, or even policy positions. It was composed of representatives of State and local governments. There was a studied effort not

to dictate to the States, but to give them those options which are contained in the report.

I have formed the opinion—let me ask you what your opinion is—that it was a comprehensive report, in that it did touch upon all aspects of law enforcement. Is that not true?

Mr. GORTON. That is true, and that is what we are attempting to do in our state. And there is no question but that we were inspired to go in this direction by the work of the National Commission.

Senator HRUSKA. Now, there is some debate about the term for which the LEAA program should be continued and extended. The estimates run all the way from 2 years to 10 years. The recommendation of the Department of Justice is 5 years.

Could you outline briefly what the countervailing and the various arguments are, one way or another, as to how long the extension should be?

Mr. GORTON. Those who do not get their ideas embedded in the extension, I suppose, are for a short-term extension. Those who do would prefer that the extension be for an extended period of time. I personally am inclined to agree—and I am speaking in the abstract now, without knowing exactly how it is going to come out—with the recommendation of the Department of Justice.

It seems to me that this is an area which is important enough to Congress that Congress should be able to reexamine it at reasonable intervals. To ask you to go through the exercise which you are going through now, however, every 2 years, is, I think, to put too great a burden on the Congress and also to give us too little time within the States actually to come up with appropriate plans, to implement the plans, and to move forward.

We have just been speaking of standards and goals. We cannot complete that process, of course, in 2 years. If it is extended 10 years it will be forgotten and it will become a part of the bureaucracy which works under its own head of steam. I think 5 years is an appropriate compromise.

Senator HRUSKA. Well, we are seeking to draft legislation that is reasonable and that is workable, and that is why I asked for your judgment.

Mr. Gorton, we may have some further questions, based upon testimony of other witnesses, we would like to direct to you. We would like to do so in writing and ask you to respond.

Mr. GORTON. Any possible help which I can provide for the committee, I would provide.

I would like to say that in some respects of my testimony here, I have been critical of LEAA. I do not mean to leave the overall impression that I am critical of either the agency or the program itself. I think the program has been successful. I think it is vital to the improvement of the criminal justice system in the States and throughout the United States. It is just what I think it is so important that, to the extent that we can perfect it, we ought to try to do so.

Thank you very much, Senator.

Senator HRUSKA. We have had some criticism of the program, and, of course, some critics did point to the fact that here we are, 8 years and \$4 billion later, and crime is still going on. Those critics do not realize that they are not criticizing LEAA, because 85 percent of its money goes in block grants to the States and local governments. When that criticism is made that crime is still going up, that criticism does not stay on the back of LEAA; it extends to the States and local governments.

But, certainly, the increase in crime cannot be attributed to the distribution of \$4 billion among the 50 States. I would hope that would not be a reasonable interpretation.

Mr. GORTON. That is not a reasonable interpretation, nor, sir, do I think it is a reasonable interpretation to say that that means that the States and the local governments have wasted the money. We do not know how badly off we would be if this program had not come into existence, but I can assure you, in my State, we would not have made anything like the advances we have been able to make in improving the training, the morale and the ability of our law enforcement agencies to deal with the problem of crime.

It is perhaps the most serious domestic problem we have and will require the efforts of all of us working cooperatively to solve.

Senator HRUSKA. Well, is that type of criticism not also subject to this implication: that the way to do it is have LEAA abandon bloc grants and deal specifically with specific situations on a categorical basis? Would that not be disastrous?

Mr. GORTON. It would be absolutely disastrous because it would be saying that someone here in an office in Washington, D.C. knows more about a problem in Omaha and Seattle than the people who are right there dealing with it on a daily basis, and that simply is not the case.

Senator HRUSKA. Well, I have lived here for almost a quarter of a century, and I agree with your observation that there is not one iota more wisdom or high merit in Washington, D.C., than in Omaha or Seattle.

Thank you so much for coming in. The same expressions of gratitude to your colleague, and let the record have his name, and his capacity.

Mr. GORTON. It does.

Senator HRUSKA. The next witness will be Mr. Richard Harris, chairman of the National Conference of State Criminal Justice Planning Administrators.

Mr. Harris is director of the Virginia Division of Justice and Crime Prevention, and Executive Director of the Virginia Council on Criminal Justice. He currently serves as chairman of the National Conference of State Criminal Justice Planning Administrators. He formerly served as an assistant attorney general for Virginia. He is a graduate of the University of Virginia Law School, and a captain in the U.S. Naval Reserve. The Senator has had some contact with your fine association of criminal justice planners, and we are anxious to hear your testimony.

Would you identify the persons who are with you at the witness table?

[The prepared statement of Mr. Richard N. Harris follows:]

STATEMENT OF RICHARD N. HARRIS, DIRECTOR, DIVISION OF JUSTICE & CRIME PREVENTION, COMMONWEALTH OF VIRGINIA AND CHAIRMAN, NATIONAL CONFERENCE OF STATE CRIMINAL JUSTICE PLANNING ADMINISTRATORS

Mr. Chairman, and distinguished members of this Committee: My name is Richard N. Harris. I am director of the Division of Justice and Crime Prevention of the Commonwealth of Virginia, and Chairman of the National Conference of State Criminal Justice Planning Administrators.

I and the National Conference very much appreciate your invitation to testify today at the hearings on the reauthorization of the Crime Control Act of 1973, and related matters.

The National Conference of State Criminal Justice Planning Administrators represents the directors of the fifty-five (55) State and territorial criminal justice planning agencies (SPAs) created by the States and territories to coordinate their programs to improve the administration of justice. Under the Crime Control Act, the SPAs are the governmental entity responsible for determining how best to allocate approximately 67% of the appropriations made available to LEAA under the Act, a sum in Fiscal Year 1975 of almost \$592 million.

In essence, the States and the SPAs are assigned the central role under the Crime Control Act. Now, having seven years of experience under the original Act and its extensions, we, the States, are delighted to share our experiences with you on the operation of the program to date, and those major recommendations we have for statutory changes in the reauthorization legislation.

Prior to 1965, there was no federal financial assistance program for State and local criminal justice agencies. Responding to a growing public concern about crime and criminal justice, Congress authorized a small federal assistance program under the Law Enforcement Assistance Act of 1965. The program, under the auspices of the Department of Justice, funded research and demonstration projects in accordance with predetermined, federally-defined categories of activities. The 1965 Act also authorized funds for the establishment of State criminal justice "planning agencies". This categorical grant program, operating under the Office of Law Enforcement Assistance, made no notable impact on the criminal justice system or crime.

Two years later, in 1967, the President's Commission on Law Enforcement and the Administration of Justice—commonly referred to as the President's Crime Commission—documented in detail the problems of the Nation's criminal justice system. The Crime Commission described antiquated police practices, deplorable conditions in our jails and prisons, and documented abuses of justice which had occurred in some of our courts. The Crime Commission blamed many of the difficulties of our fragmented criminal justice system on "its reluctance to try new ways". It challenged the "system" to confront its problems and to begin to work toward change and reform. The Crime Commission also called upon the American public to give the criminal justice system the wherewithal to "do the job it is charged with doing". The Commission strongly endorsed the concept of and need for a federal criminal justice assistance program "on which several hundred million dollars could be profitably spent over the next decade". The Commission also urged that State and local criminal justice planning efforts be supported by the Federal Government.

By 1968, crime had become the number one concern according to public opinion polls. In June of 1968, the President signed into Public Law 90-351, the Omnibus Crime Control and Safe Streets Act of 1968. This legislation represented the Federal Government's first comprehensive criminal justice grant-in-aid program for State and local governments. The Safe Streets Act was specifically designed to provide financial aid and technical assistance for strengthening State and local law enforcement and criminal justice, and improving crime prevention and control efforts.

The Safe Streets Program has assisted and encouraged a broad range of projects to coordinate, modernize and increase all areas of the criminal justice system. The States have developed new approaches designed to help reduce

crime. I would like to cite just a few of these activities in which State and local governments have been engaged.

Many improvements have been made in the area of police service—from community relations units, training and education programs to crime laboratories, improved telecommunications networks and specialized patrol techniques. In Muskegon County, Michigan, for example, our program funds have been responsible for that County's Centralized Police Dispatch (CPD) System. It is a countywide four frequency consolidated communications system which has reduced operational costs and allowed police officers to be reassigned street duties. The system has implemented most of the applicable standards as cited by the National Advisory Commission on Criminal Justice Standards and Goals. And in Arkansas, we have funded that State's Law Enforcement Training Academy, which has provided training to nearly 5500 officers in 184 courses and has utilized a mobile classroom in order to reach officers who, because of the size or workload of their department, would otherwise be unable to take advantage of the program. Many States have—and are developing—statewide criminal justice information systems. These systems expand the data base and significantly increase the efficiency of servicing information requests. In South Carolina, for example, an average of 300,000 inquiries are processed each month with a delivery time of 15 seconds per request. The previous manual method took from one hour to several days.

In Wheat Ridge, Colorado, police have created a special unit to help reduce commercial and residential burglaries. They have reduced response time to one minute, their burglary clearance rate is up 10%, and reported burglaries were reduced by 20% over the previous year.

States have also become actively involved in programs to upgrade all areas of court operations. In addition to assisting with the employment of specialized personnel, programs have been initiated to expedite caseload management and reduce court backlogs and processing time, improve courtroom security and provide training and education programs for judges, clerks and other court personnel. Many states, including my own, have been key advocates and supporters of court unification efforts. In Mississippi, a program has been developed to offer practical training experience for law students. Students are assigned to prosecutors, public defenders and juvenile court judges with the goal of not only gaining experience, but also providing much needed assistance to the court system. Mississippi has also developed a Criminal Justice Research Service which provides judges and lawyers with comprehensive research data on various aspects of criminal law and procedure. In two years of operation, over 3,000 inquiries have been answered. The service has also been instrumental in assisting with curriculum changes in law schools by analyzing the nature of requests in order to make the law programs more responsive and useful.

In Pulaski County, Arkansas, a special circuit court support personnel program was funded to help reduce a backlog of 1500 cases awaiting felony jury trials. This project, during a three month period, reduced the number of cases seriously delayed in coming to trial by 69%. One hundred eight (108) cases were closed with a 93% conviction rate. Prior to the project, the average time a person spent in jail awaiting trial was 3.5 months. After the project, that time was reduced to 1.3 months.

In Newark, New Jersey, a court management project has affected a court backlog decrease of 28%, and the failure-to-appear rates have been a low 12%, 13% and 8% for January, February and March of this year, respectively.

A major thrust of the Safe Streets Program in the field of corrections has been the development of "community-based" programs which seek to rehabilitate and treat offenders in or near their own communities. With program funds, States and localities are able to support basic and much needed activities such as improved probation and parole services, diagnostic and classification programs, improved treatment of female offenders, and expanded work-release and study-release opportunities for inmates. In Bucks County, Pennsylvania, funds have been utilized to improve adult detention services for inmates with drug, alcohol or emotional problems. The Diagnostic and Treatment Center offers a broad spectrum of psychological and psychiatric services, and identifies special problems. In only one year, this program saved the

State over \$60,000 which would have been necessary to take care of those persons who otherwise would have been sent to State institutions for 60 days observation.

In Omaha, Nebraska, funds are being used to help support the Greater Metropolitan Omaha Area Seventh Step Foundation. The program has reduced recidivism. Eighty-one percent of the clients have been placed in jobs, and there is only a 10% annual rearrest rate. In Middlesex County, Massachusetts, a program aimed at adult misdemeanants offers a comprehensive program of rehabilitation services and has reduced recidivism. The program serves approximately 350 to 400 inmates a year. For inmates 21 years or younger, the program has reduced the recidivist rate by 12%; for inmates 22 years or older who have been previously incarcerated and whose prior record centered on property offenses, the rate was reduced 23%. And in Sherwood, Arkansas, the "One on One" Volunteer Probation Program of the municipal court uses volunteers to help provide probation services to adults and juveniles in misdemeanor and felony cases. The project reports only an 8% recidivist rate.

A substantial amount of activity has been focused on the juvenile justice system. Among the achievements supported by our program are youth service bureaus, halfway houses, group and foster homes, and expanded counseling and referral services. States have been instrumental in establishing drug and alcohol treatment programs, emergency units, hot lines and crisis intervention programs. In Lincoln, Nebraska, for example, the volunteer probation counselor program is part of the Probation Department of the Lincoln-Lancaster Municipal Court. The program is directed at selected high risk offenders 18-25 years of age, and matches youthful misdemeanants with trained community volunteers. An evaluation indicates that these probationers showed a marked reduction in the frequency and seriousness of offenses during the probatoinary year compared to the prior year and a significantly better record than that of an equivalent group under regular probation.

In Philadelphia, Pennsylvania, the Neighborhood Youth Resources Center is open 13 hours a day and is located in the heart of the high-crime, inner-city area. The program seeks to divert inner-city youth, aged 10-17 years, from entering the juvenile justice system and provides a wide-range of supportive services. During one four-month period alone, male truancy arrests were reduced by 62%. And during that same period, felony arrests of juveniles were 75% less in the target area than in a comparable area. In 1970 alone, seven gang-related deaths were reported in the target area. Since 1971, only two have occurred.

In Massachusetts, the Group School and Advocacy Program in Cambridge diverts youths from the criminal justice system through education, legal and non-legal assistance. It is an alternative high school for delinquent and non-delinquent youth from low-income families. The Massachusetts SPA has cited this program as the foremost juvenile delinquency prevention program in the State and the National Institute of Mental Health has named it one of eleven national models for creative and innovative approaches to drug prevention.

Drugs are continuing to be a serious problem, and becoming more serious among our younger children. One program which has been aimed at reducing drug traffic is the Michigan Diversion Investigation Unit (DIU). The purpose of the sixteen man unit is to reduce illegal drug traffic, and to identify illicit sources of supply. During the first year, over \$2.4 million in drugs were confiscated, 6 licenses revoked, and 70 arrests made stemming from 287 investigations. During the second year of the program, over \$6.3 million in drugs were confiscated, 11 licenses revoked, and 110 arrests made from 45 investigations.

These are but a few of the thousands of programs that have been funded since 1969 through the Safe Streets Program. I could go on all day—in fact all week. I could tell you about the Work-Study Release Centers in West Virginia, or the Lake County Judicial Automated Record System in Waukegan, Illinois; the Neighborhood Assistance Officer Program in Dayton, Ohio; or the Integrated Program to Combat Organized Crime in California; the rape prevention programs in the State of Washington or the Grady County Youth Service Bureau in Chickasha, Oklahoma. The list is endless. The point, gentlemen, is that many useful programs and services are being provided and

new techniques are being developed to improve the criminal justice system and to help find ways to reduce crime which would not be possible without the financial and technical assistance of this program.

In 1968, there appeared to be an assumption that better coordinated, intensified and more effective law enforcement and criminal justice efforts, from programs like those enumerated above, would lead to greater public safety and crime reduction. The "Declaration and Purposes" of the Safe Streets Act state:

"Congress finds that * * * To reduce and prevent crime and juvenile delinquency, and to insure the greater safety of the people, law enforcement and criminal justice efforts must be better coordinated, intensified, and made more effective at all levels of government * * * It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement and criminal justice at every level by national assistance."

Further, in a specific statement of purpose (Section 301(a)), action grant funds are authorized to " * * * carry out programs and projects to improve and strengthen law enforcement and criminal justice."

The Congress apparently assumed that by promoting efforts to improve the components of the criminal justice system that crime would be reduced. By inference the Safe Streets Program would indirectly reduce crime. In 1968, no one seriously questioned the popular belief that the infusion of money to improve the criminal justice system would, in fact, automatically reduce crime.

Wholesale and lasting crime reduction through limited planning efforts and financial assistance confined to the criminal justice system is probably an unrealistic expectation. Rather, it is more likely that crime reduction and prevention can only be accomplished by addressing the total social, political and economic needs and attitudes of citizens. Long-term impact may come to fruition through continued efforts to develop a sound criminal justice system. However, it is worthwhile to keep in mind that the major role of the criminal justice system is to deal with crime after a crime has occurred. Therefore, crime prevention is more likely to occur when the efforts of the criminal justice system are operating at the same time the Nation is making major efforts to attain a strong economy, provide job and educational opportunities, ameliorate social inequities, and reduce the opportunity and need to commit a crime.

Let us assume that crime reduction was the direct and specific purpose of the Safe Streets Act. Was it a realistic expectation and a fair criterion that the federal investment must result in an immediate drop in crime? Reducing crime is an enormous burden to impose upon one grant-in-aid program which, by comparison to other federal assistance programs, is relatively small. In addition, federal expenditures represent only slightly more than five percent of the total State and local government outlays for criminal justice purposes. In the vernacular, it is merely a "drop in the bucket". However, it has been a necessary "drop" to aid in the development and operation of a responsible, responsive, fair and effective criminal justice system.

In assessing the effectiveness and success of the Crime Control Act program many observers, including Congress, look first to the reported crime rate compiled and published annually as the Uniform Crime Reports (UCRs) by the Federal Bureau of Investigation. However, two fundamental factors must be recognized when utilizing these statistics. First, during the past five years when reported crime exhibited an increase, the Nation's economic health began to suffer. Such key indices as inflation and unemployment skyrocketed. Historically, studies have shown that crime increases during periods of economic change and stress.

Second, the crime statistics are themselves controversial. Analysts challenge the validity and completeness of the UCRs because they are compiled through a voluntary, erratic and non-uniform system of collection. Much of the initial and on-going State and local expenditures in the Crime Control Act program are supporting the development of a more valid data base and improving the capability of criminal justice agencies to produce crime information on a complete, uniform and quality basis. As a result, these statistics are becoming more complete each year. More and more agencies are participating, and the data being generated are more reliable. Inevitably, this increased participa-

tion and completeness has had an impact on the numbers represented by the statistics. They have increased. A recent study in Pennsylvania confirmed that a great portion of a recent increase in the UCRs for that State was as a result of additional agencies reporting statistics which had not participated in the reporting program the previous year. This finding exemplifies that the UCR statistics are not a clear indication of the seriousness of crime; data cannot, to date, be accurately compared from year-to-year; and there is a substantial pool of unreported crime.

As a result of these and other problems experienced with crime reporting, a new measurement technique, victimization surveys, is being encouraged to obtain a more accurate gauge of the scope of crime. The first national victimization survey was undertaken in 1967 (National Opinion Research Center Field Survey II, Criminal Victimization in the United States) as part of the work of the President's Crime Commission. Current victimization survey work is being conducted by the National Crime Panel of LEAA. Within the next several years, the States will have data which will permit them to determine whether the actual rate of crime victimization has been changing, and what if any effect the Crime Control Act program has had on the reduction of crime.

The National Conference fully supports reauthorization of the Crime Control Act, and in substantially its current form. Although resources made available under the Act constitute only slightly more than five percent of State and local criminal justice expenditures, the resources have made a significant impact on the criminal justice system. The primary reasons for this impact programming has been that the federal money represents almost the only funds available to line criminal justice agencies for experimentation and attempting new ideas and techniques, and that the States are expending the money in a planned, coordinated and rational manner. Monies under the Act have permitted system-wide criminal justice planning, directing responses to crime in urban areas, establishing standards for criminal justice personnel and operations, drafting major legislative changes including criminal code revisions, and introducing innovative programming. Without the infusion of federal funds under the Crime Control Act, the States and localities would be able to do little more than maintain their existing operations. At this particular time in our recessionary economy, reductions in or terminations of funds to States and localities would have a ripple effect. The States and localities have in many cases already cut their operations and programming to the bare-bones. Any federal cutbacks added to State and local budget problems would serve to make it more difficult to bring about the kinds of improvements called for by the President's Crime Commission.

Congress should reauthorize the program through 1981. The Conference believes that the continuity of the program is critical. The States have been faced with the original enactment of the Omnibus Crime Control and Safe Streets Act in 1968, amendments in 1970, 1973 and again this year. Put into conjunction with the passage of the Juvenile Justice and Delinquency Prevention Act of 1974, and the changing federal leadership of the program, the States have never had a stable program within which to operate. Each time the States have completed changes required by new legislation, regulations or guidelines, a new series of changes have been initiated.

The National Conference would like to see few major changes in the Crime Control Act. A vehicle for reauthorizing the Act and instituting some of the changes recommended is S.2212, which the National Conference endorses in part. The specific changes the Conference recommends, the proposed statutory language and the specific justification for each of the recommendations will be submitted to you at a later time for the record and for your consideration. However, I would at this time like to discuss in general terms several of our recommendations.

The Conference recommends that Section 205 be amended so that the minimum amount of planning funds allocated to each State would be raised from a base of \$200,000 to a base of \$350,000, but only if additional planning funds should be appropriated to cover the increases. This increase will enable the smaller States to perform the planning and administrative duties imposed upon them by LEAA, and larger States can continue to perform at least at their present financial level. Over the last several years, through statutory, regulatory and administrative changes, SPAs have been required to perform

a large number of additional functions, some of which were once the responsibility of LEAA. Inflation has also taken its toll. One study conducted in Rhode Island indicated that the minimum amount of planning funds necessary for that SPA to perform its duties was over \$500,000.

The Conference supports Section 3 of S.2212 which recommends that Section 205 be amended so that LEAA can reallocate unusual Part B funds to the States, but we recommend that language be added to that amendment requiring LEAA to provide adequate notice to the States of the availability of such funds. Under present law 40% of Part B funds must be allocated for local and regional planning. For a variety of reasons, these local jurisdictions sometimes find themselves unable to spend their allocated money within the statutorily prescribed time. Without an amendment, the money cannot be reallocated to the States. Similar language requiring LEAA to provide adequate notice to the States of the availability of reverted Part C and E funds should be added to Sections 306(b) and 455(b), respectively.

The Conference also recommends that Section 301(d) be amended so that the requirement that not more than one third of any grant made to a State be expended for compensation of personnel be deleted. The States have frequently been criticized for expending too many federal dollars for equipment. However, Congress has limited the States' flexibility to provide additional service and training programs by restricting the amount of money that could be expended on personnel.

The language of Section 303(a) of the Act should be amended to clearly permit States to submit comprehensive criminal justice plans which LEAA could certify as valid for multi-year periods of time. Annual updates containing information on changing strategies and programs could be required. This would permit States to spend less time in producing largely redundant documents year-in and year-out and more time to do more meaningful planning and evaluation.

The statutory language found in Section 303(a)(5) describing the minimum contents of the comprehensive plan should be struck. These specific statutory requirements many times result in plans being submitted which, while they may meet these requirements for plan format, do not necessarily fulfill the needs of the federal, State and local governments for planning purposes. Plans are often produced by the States and reviewed by LEAA for conformance to these statutory and LEAA regulatory guidelines but not for their viability as planning documents. As a result the federal, State and local governments find themselves to a large degree involved in a paper war. Specific plan requirements that are relevant to the needs of individual jurisdictions are better developed by regulation than by a legislation provision which specifies the format of each State's plan.

The Conference supports Section 4(1) of S.2212 that would amend Section 303(a) by adding language encouraging States to develop, demonstrate and implement programs designed to strengthen courts and improve the availability and quality of justice including court planning.

State and regional planning units are presently not permitted to utilize Part C funds for conducting evaluation and technical assistance. In light of the block grant philosophy, language should be added permitting Part C funds to be used for that purpose.

The Conference believes that Section 307 should be struck in its entirety. Providing special emphasis to programs dealing with the prevention, detection and control of organized crime and of riots and other violent civil disorders is a reflection of the priorities of the late 1960's. Requiring arbitrarily that all States provide special emphasis to particular substantive problems is contrary to sound planning and the variety and degree of the problems found in each State.

The National Conference firmly believes the block grant approach found in the Crime Control Act and in S.2212 must continue in order to assure that the necessary system-wide planning is undertaken; that coordination and cooperation, those concepts central to the present legislation, are promoted; that statewide priorities are set and addressed; and that local jurisdictional boundaries do not serve as a barrier to the initiation of good programming.

It is to be expected that a block grant program, by its very nature, will always be subject to cries for categorization and "earmarking" of funds.

Those who represent special program interests or different classes of potential grant recipients will seek Congressional guarantees of their "fair share" as they see it. Notions of fair shares develop with respect to one level of government as opposed to another, one field of justice as opposed to another, one type of agency as opposed to another, one branch of government as opposed to another and one type of political subdivision as opposed to another.

In the past, categorizations for corrections and juvenile delinquency have been enacted. Today there are proposals to categorize assistance to courts, training and recruitment programs and high-crime urban areas, among others.

A system of statewide comprehensive planning is compromised and distorted when the programs and priorities generated by such a system must conform to predetermined, uniform formulas. It makes little sense to urge and support a rational decision-making process based on the premise that State characteristics, and hence problems, vary, and then insist that each State place a certain percentage of funds available in a specified program area.

In that an effective system of planning will naturally allocate resources in the most rational and appropriate manner, and in that LEAA has the appropriate mandate to review and scrutinize each State's planning process to ensure its validity and comprehensiveness, we urge that the Congress reject the proposals to categorize the Act further, such as those embodied in S.460 for training and recruitment programs, Section 4(3) of S. 2212 with respect to a separate high-crime/urban areas program, and H.R. 8967 for court improvement. In fact we urge the Congress to review the Act for the purpose of identifying any areas where "de-categorization" may be possible. The Part E categorization for corrections should be eliminated, merging Part E resources into the general action program resource category under Part C.

The Conference is aware of three proposals to modify Section 203(a) of the Act. (1) The National Conference of State Legislatures and Senator Morgan in S.1297 and S.1598 would require or permit the State legislatures to establish the SPA, and possibly place the SPA under the authority of someone other than the chief executive. (2) The National Conference of State Legislatures would require that the legislatures play a role in planning and priority setting for the federal monies. And (3) the National Conference of State Legislatures and the National Association of Counties would require that the SPA supervisory board be comprised of a specified number or percentage of elected officials. The National Conference is opposed to each of these proposals.

The Conference believes that one of the strengths of the program to date has been that the SPAs have been created as adjuncts to the Governors, subject to their jurisdiction. This has enabled the Governors to receive criminal justice system-wide advice. As a result of this new resource, the Governors have been better able to exert much more effective leadership in the criminal justice field. In fact, the SPAs have been asked to do more than merely plan for and allocate federal funds. Some SPAs have been asked to comprehensively plan so as to integrate all resources—federal, State, local—into a single planning and budgeting process for the criminal justice system within their States. In some States SPAs have been asked to operate as aides or arms of the State budget office; in others the SPAs have been asked to develop critical pieces of legislation; and still other SPAs have been asked to perform all these functions.

If one were to place the SPA under the jurisdiction of other officials, these foregoing benefits might not result. The Conference is unaware of any facts that warrant placing the SPA under any other State executive. The Governor is the chief executive, the agency performs executive functions, and therefore, it should be subject to the jurisdiction of the chief executive.

The Conference also sees no reason to require that a State legislature establish the SPA by statute. The Crime Control Act presently *permits* a State legislature to establish the SPA by statute if it so desires. There is nothing to prevent it. Close to forty percent of SPAs are already established by legislation. The remaining legislatures have had seven years to act. If they haven't established the SPA by legislation by now, it can be assumed that there are valid reasons why it has not been done—reasons which do not

warrant interference by federal legislative action. In light of the frequent federal legislative and administrative changes requiring modifications in State enabling legislation, it is understandable why legislatures might be happy not to have to amend State legislation every several years to conform to changing federal requirements. It is the Conference's position that States should be permitted the maximum flexibility in this regard.

The Conference is also opposed to permitting the legislature to play an executive role in the planning and priority setting required under the Crime Control Act. The Crime Control Act presently requires the legislature to participate in the program through the appropriation of match and general oversight. However, the National Conference of State Legislatures is proposing that Congress go beyond present legislation and map out a role for State legislatures unique for any federal grant-in-aid program other than general revenue sharing. The State legislatures want the "final" word on how these federal monies are to be expended. They want to say what the program goals and priorities ought to be. They in fact want to obtain the same authority over this program that they have under general revenue sharing. No other federal categorical or block grant permits this kind of role for the State legislatures, and to do so here would establish a precedent.

The National SPA Conference urges Congress to reject proposals to mandate specific quotas for board composition. It therefore recommends that the last sentence in Section 203(a) be struck and that suggestions for a requirement that a specified number of percentage of elected officials be on the SPA board be refused. Any attempts to establish quotas for any interest group on these boards should be rejected. To mandate specific quotas for board composition is to inhibit the selection of the most qualified persons, and jeopardizes the retention of the broad representative character of these boards. In some states, a requirement for legislative or judicial representation raises constitution questions.

It has come to the attention of the National Conference, that you will receive proposals to change the match provisions of the Crime Control Act. The States have worked exceedingly hard to ensure tight financial management and fiscal integrity in the block grant program. Concern in this area prompted the National SPA Conference to undertake a large and onerous effort in developing a model management information system (MIS) and to now implement that system in the States. Among those lessons learned in the administration of the program were those related to the unmanageable and ghostly nature of so-called "in kind match." The States have had numerous illustrations that cash match, the real and accountable contribution made by a grant recipient as its commitment to the project undertaken, is far preferable to "in kind match." The States would also oppose any change which would limit their option to require such match on either a grant-by-grant or "aggregate" basis. There are numerous cases where grant characteristics and circumstances would require the use of grant-by-grant match to ensure fiscal integrity.

Finally with respect to matching contributions, the States would be opposed to changes in the Act to require a State "buy in" on local projects of more than \$5 for every 90 federal dollars on all non-construction projects and \$25 for every 50 federal dollars for local construction. If in attempting to comply with the Act's assumption of cost requirement, States ask local subgrantees to provide more than 5% of project cost in continuation funding years, the State should not be required to contribute more than the required five percent "buy in". In fact, to do otherwise frustrates the intent of the assumption of cost provision, which is designed to ensure that local grantees begin assuming total program costs without increasing federal or State assistance. Since local projects will become totally locally funded, the State assumption of cost policies get localities to begin to make an early substantial investment in their projects.

Mr. Chairman, the program is fundamentally sound. The system of justice in America today is substantially superior to that which served us a scant seven years ago. I thank you for your attention and consideration, and I would be pleased to entertain any questions.

STATEMENT OF RICHARD N. HARRIS, DIRECTOR, DIVISION OF JUSTICE AND CRIME PREVENTION, COMMONWEALTH OF VIRGINIA; AND CHAIRMAN, NATIONAL CONFERENCE OF STATE JUSTICE PLANNING ADMINISTRATORS

Mr. HARRIS. Yes, sir, on my left is Mr. Rochard Geltman, and on my right is Miss Jane Roberts, both members of our conference staff, who are assisting me.

Senator HRUSKA. Fine. You have filed this statement with the committee. You may either read it, or you may highlight it. Its whole text will be put in the record.

Mr. HARRIS. Thank you, sir. My intention is to highlight it, and I will attempt to remember as I go through the highlights, to reference pages in the written statement which has been submitted. Essentially, my oral comments will be a shortened version of the written statement, and I will quote from it in some instances.

I and the national conference very much appreciate the invitation to testify at the hearings on the reauthorization of the Crime Control Act and its related matters. The National Conference of State Criminal Justice Planning Administrators represents the directors of the 55 States and territorial criminal justice planning agencies, called SPA's, as an acronym, created by the States and territories to coordinate their programs to improve the administration of justice under the Crime Control Act.

The SPA's are the governmental entity responsible for determining how best to allocate approximately 65 percent of the appropriations made available to LEAA under the act, a sum, in fiscal year 1975, of almost \$592 million. In essence, then, the States and the SPA's are assigned a central role under the Crime Control Act.

Now, having 7 years of experience under the original act and its two extensions, we, the States, are delighted to share our experiences with you and other Members of the Congress, on the operation of the program to date, and those major recommendations we have for statutory changes in the reauthorization legislation.

The Safe Streets Act program has assisted and encouraged a broad range of projects to coordinate, modernize, and increase all areas of the criminal justice system. The States have developed new approaches designed to help reduce crime, and I would like to cite just a few of these activities, in which State and local governments have been engaged. I am now referring to page 3 of my written statement.

Many improvements have been made in the area of police service, from community relations units, training and education programs to crime laboratories, improved telecommunications networks and specialized patrol techniques. In one county in Michigan, for example, our program funds have been responsible for that county's centralized police dispatch system. It is a countywide four frequency communications system which has reduced operational costs and allowed police officers to be reassigned street duties. The system has implemented most of the applicable standards as cited by the National Advisory Commission on Criminal Justice Standards and Goals.

And in Arkansas, funds have been made available to that State's law enforcement training academy, which have provided training to nearly 5,500 officers in 184 courses and utilized mobile classrooms in order to reach officers who, because of the size or workload of their department would otherwise be unable to take advantage of the program.

States and local governments have also been actively involved in programs to help upgrade all areas of court operations. In addition to assisting with the employment of specialized personnel, particularly court administrative officers, court programs have been initiated to reduce court backlogs and processing time, improve courtroom security, and provide training and continuing judicial education programs for judges, clerks, and other court personnel.

Many States, including my own, have been key advocates and supporters of court unification efforts. In a county in Arkansas, a special circuit court support personnel program was funded to help reduce a backlog of 1,500 cases awaiting felony jury trials. This project, over a 3-month period, reduced the number of cases seriously delayed in coming to trial by 693.

One hundred and eight cases were closed with a 93 percent conviction rate. Prior to the project, the average time a person spent in jail awaiting trial was 3.5 months. After the project, that time was reduced to 1.3 months.

In Newark, New Jersey, a court management project has affected a court backlog decrease of 28 percent, and the failure-to-appear rates have been a low 12 percent, 13 percent, and 8 percent for January, February, and March of this year, respectively.

A major thrust of the safe streets program in the field of corrections has been the development of community-based programs which seek to rehabilitate and treat offenders in or near their own communities. With program funds, States and localities are able to support basic and much needed activities such as improved probation and parole services, diagnostic and classification programs, improved treatment of female offenders, and expanded work release and study release opportunities for all inmates.

In Omaha, Nebr., funds are being used to help support the Greater Metropolitan Omaha Area Seventh Step Foundation. The program has reduced recidivism. Eighty-one percent of the clients have been placed in jobs, and there is only a 10 percent annual rearrest rate.

In Middlesex County, Mass., a program aimed at adult misdemeanants offers a comprehensive program of rehabilitation services, and has reduced recidivism. The program serves approximately 350 to 400 inmates a year. For inmates 21 years or younger, the program has reduced the recidivism rate by 12 percent; for inmates 22 years or older who have been previously incarcerated and whose prior record centered on property offenses, the rate was reduced 23 percent.

A substantial amount of activity has been focused on the juvenile justice system. Among the achievements supported by our program are youth service bureaus, half-way houses, group and foster homes, and expanded counselling and referral services.

States and localities have been instrumental in establishing drug and alcohol treatment programs, emergency units, hot lines and crisis

intervention programs, all with the assistance of funds under the Crime Control Act.

In Philadelphia, the Neighborhood Youth Resources Center is open 13 hours a day and is located in the heart of the high-crime, inner-city area. The program seeks to divert inner-city youth, aged 10 to 17 years, from entering the juvenile justice system and provides a wide range of supportive services. During one 4-month period alone, male truancy arrests were reduced by 62 percent. And during that same period, felony arrests of juveniles were 75 percent less in the target area than in a comparable area of the city. In 1970 alone, seven gang-related deaths were reported in the target area. Since 1971, only two have been reported.

Drugs continue to be a serious problem, and becoming more serious among our younger children. One program which has been aimed at reducing drug traffic is the Michigan Diversion Investigation Unit. The purpose of the 16-man unit is to reduce illegal drug traffic and to identify illicit sources of supply. During the first year, over \$2.4 million in drugs were confiscated, 6 licenses revoked, and 70 arrests made, stemming from 287 investigations. During the second year of the program, over \$6.3 million in drugs were confiscated, 11 licenses revoked, and 110 arrests made from 45 investigations.

Now, Mr. Chairman, these are but a few of the thousands of programs that have been funded since 1969 through the safe streets program. I could, of course, as you well know, go on all day, in fact, all week. I could tell you about the work-study release centers in West Virginia, or the Lake County judicial automated record system in Illinois; the neighborhood assistant officer program in Dayton, Ohio; or the integrated program to combat organized crime in California; the rape prevention programs in the State of Washington; or the Grady County Youth Service Bureau in Oklahoma. The list is endless. The point is, gentlemen, that many useful programs and services are being provided and new techniques are being developed to improve the criminal justice system and to help find ways to reduce crime which simply would not be possible—and that is so important—it simply would not be possible without the financial and technical assistance provided under this legislation to the States and their local units of government.

Now, I am referring on page 10 of my written statement.

The National Conference fully supports reauthorization of the Crime Control Act, and in substantially its current form. Although resources made available under the act constitute only slightly more than 5 percent of State and local criminal justice expenditures, the resources have made a significant impact on the criminal justice system. The primary reasons for this impact have been that the Federal money represents almost the only funds available to line criminal justice agencies for experimentation and for attempting new ideas and techniques, and that the States are expending the money in a planned, coordinated, and rational manner.

Without the infusion of these Federal funds, States and localities would not be able to do more than simply maintain their existing systems. At this particular time in our recessionary economy, reductions in or terminations of funds to States and localities, of course,

would have a ripple effect. The States and localities have, in many cases, already cut their normal operations and programming to the bare bones. This, of course, is not new to members of this committee.

I would like to interject an additional comment here that is not included in our written statement, and it concerns something that is so very, very important: the aid that this program has provided in the simple matter of comprehensive criminal justice planning, and the attempts to reduce the historical fragmentation of the criminal justice system. I think this needs to be emphasized, because in my humble view, if this program leaves no legacy at all, except the one of States and localities having the capacity to continue to comprehensively plan in the criminal justice system that would indeed be a very effective legacy.

Now, I am referring to page 11 of my comments.

Congress should reauthorize the program through 1981. The Conference believes that the continuity of the program is critical. The States have been faced with the original enactment of the Safe Streets Act, of course, in 1968, amendments in 1970, 1973, and again this year. Put into conjunction with the passage of the Juvenile Justice and Delinquency Prevention Act of 1974, and the changing leadership at the Federal level of the program—and specifically within LEAA—the States have had some difficulty in maintaining a stable program within which to operate simply because there has been, to some degree, a lack of stability at the Federal level.

Now, with reference to some specific suggestions for change, as I have said, we would like to see a few, but not a great number of major changes. A vehicle for reauthorizing the act and instituting some of the changes recommended is, of course, the bill before this committee, S. 2212, which the National Conference endorses in part. The specific changes the Conference recommends, the proposed statutory language and the specific justification for each of the recommendations will be submitted to you at a later time for the record and for your consideration. However, I would like at this time to discuss in general terms some of our recommendations.

The Conference recommends that section 205 be amended so that the minimum amount of planning funds allocated to each State would be raised from a base of \$200,000 to a base of \$350,000, but only if additional planning funds should be appropriated to cover the increases. This increase will enable the smaller States to perform the planning and administrative duties imposed upon them by LEAA and larger States can continue to perform at least at their present financial level.

The attorney general of the State of Washington has commented to you already about the level of paperwork, if that is a proper phrase, imposed on all SPA's, and quite obviously, that falls heavily on the smaller States who have the smaller staffs.

The Conference supports section 3 of S. 2212 which recommends that section 205 be amended so that LEAA can reallocate unused part B funds to the States, but our Conference recommends that language also be added to that amendment requiring LEAA to provide adequate notice to the States of the availability of those funds. Similar language requiring LEAA to provide notice to the

States of the availability of reverted part C and E funds should also be added to sections 306(b) and 455(b), respectively.

Now, on page 13 of my written statement.

The Conference also recommends that section 301(d) be amended so that the requirement that not more than one-third of any grant made to a State be expended for compensation of personnel be deleted. The States have frequently been criticized for expending too many Federal dollars for equipment. However, Congress, in our view, has limited the States flexibility to provide additional service and training programs, by restricting the amount of money that could be expended on personnel.

Continuing on page 13, the language of section 303(a) of the act should be amended to clearly permit States to submit comprehensive criminal justice plans which LEAA could certify as valid for multi-year periods of time. Annual updates containing information on changing strategies and programs could be required. This would permit the States to spend less time in producing largely redundant documents year-in and year-out, and more time to do more meaningful planning and evaluation.

Senator HRUSKA. Mr. Witness, could you bear an interruption at that point?

Mr. HARRIS. Yes, sir.

Senator HRUSKA. Of course, the statute now requires annual updates of the plan. Is that done by submitting a totally self-sufficient document each 12 months?

Mr. HARRIS. Yes, sir.

Senator HRUSKA. Some alternatives have been suggested to that; namely, that there would be amendments proposed in a year which would bear upon the plan that had been filed the previous year. Is that a practical arrangement? Does it have any merit?

Mr. HARRIS. Yes, sir, very definitely.

Senator HRUSKA. Is that what you get into here later on?

Mr. HARRIS. No, sir, I do not get into this subject any more in my remarks.

Senator HRUSKA. I did not think you had, in a review of it, but I wanted specifically to bring that point out, because while there is no shortage of paper in America, there is a shortage of time, and there is a very great burden placed on just the massive reproduction of these documents, and multiplied 54 times—

Mr. HARRIS. I think you will find a little later in my statement a reference to the five subject areas to be addressed in each State plan which Congress originally laid out in the 1968 legislation.

The point we are making with reference to this part, section 303(a), is that there ought to be some relief from an annual recitation of the existing resources in the criminal justice system in the State. Rather, you should address only the changes from the previous year in those resources, because that is the portion of the plan that really is quite long. That is where you describe generally how your criminal justice system in the State functions, what its component parts are, what the overall support for those parts is. There really is no need to have a totally self-supporting piece of paper each year. In a single year, all we really need is to make adjustments to it, as changes occur. That is just one example of what I am talking about.

The statutory language found in 303(a)(5) is what I am referring to, describing the minimum contents of the plan. This should be struck. These specific statutory requirements many times result in plans being submitted which, while they may meet requirements for a plan format purpose, do not necessarily fulfill the needs of Federal, State, and local governments find themselves to a large degree involved in a paper exercise. Specific plan requirements that are relevant to the needs of individual jurisdictions are better developed by regulation than by any legislative provision which would specify the format of each State's plan.

LEAA has construed this particular section to lay out, for their regulatory purposes, the major components, the major parts of the general plan, and they have adapted the regulations to those breakdowns. It occurs to us that those breakdowns may not be necessary from a continuing point of view, for reasons I have already described. They may have been viable back in 1968, but perhaps we should look at some other language alternatives at this time.

Senator HRUSKA. Mr. Witness, maybe you deplore greatly and justifiably the minimum contents of comprehensive plans that are prescribed, but you should have seen the original submission of a proposal in that direction, under which the subcommittee and the Judiciary Committee operated.

Mr. HARRIS. I am quite aware of that.

Senator HRUSKA. I think there is a lot of feeling that if we get the principal thrusts, and then leave it to the department to develop in a flexible fashion through their regulations, then, instead of requiring the reproduction of so many documents, they spend just a little more time evaluating and making suggestions, would that strike a sympathetic chord?

Mr. HARRIS. Most certainly, sir.

Senator HRUSKA. You may proceed.

Mr. HARRIS. Again on page 13, the conference supports section 4(1) of S. 2212 that would amend section 303(a) by adding language encouraging States to develop, demonstrate, and implement programs designed to strengthen courts and improve the availability and quality of justice, including court planning. And may I insert at this point that we feel that is certainly a more reasonable and rational alternative with respect to the matter of addressing courts' concerns than is the bill which you have asked a previous witness about, and which has been introduced in the House.

On page 14, State and regional planning units are presently not permitted to utilize part C funds for conducting evaluation and technical assistance, except in limited ways. In light of the bloc grant philosophy, we feel that language should be added permitting part C and E funds to be used for those purposes.

There is presently, with respect to an opinion of the General Counsel of LEAA, a distinction made between the use of part B funds and part C funds for the purposes of evaluation. Some aspects of evaluation have to be carried forward by B funds and other aspects by C funds, and I must say, I cannot quarrel with the construction they have placed on the act in that regard. Let me simply suggest that clarifying language be inserted so that that distinction can be removed.

The conference believes that section 307 should be struck in its entirety, providing special emphasis to programs dealing with the prevention, detection and control of organized crime and of riots and other violent civil disorders. This is, in our view, a reflection of the congressional priorities of the late 1960's. Requiring arbitrarily that all States provide special emphasis to particular substantive problems in and of itself is, of course, contrary to sound planning and the variety and degree of the problems found in each State.

The national conference firmly believes the bloc grant approach found in the Crime Control Act and in S. 2212 must continue in order to assure that the necessary systemwide planning is undertaken, that coordination and cooperation, those concepts central to the present legislation, are promoted, and that statewide priorities are set and addressed; and that local jurisdictional boundaries do not serve as a barrier to the initiation of good programing.

On page 15, in that an effective system of planning will naturally allocate resources in the most rational and appropriate manner, and in that LEAA has the appropriate mandate to review and scrutinize each State's planning process to insure its validity and comprehensiveness, we urge that the Congress reject the proposals to categorize the act further, such as—and this, again, is consistent with the comments made by the Attorney General in Washington—in some of the categorical proposals you have before you now, S. 460 for training and recruitment programs, section 4(3) of S. 2212 with respect to a separate high-crime, urban areas program, and the bill that I referred to earlier in the House, H.R. 8967, dealing with the court improvement matters. In fact, we really seriously urge Congress to review the act for the purpose of identifying any areas where decategorization may be possible. The part E categorization for corrections perhaps should be eliminated, merging part E resources into the general action program resource category under part C.

Now, the conference is aware of three proposals to modify section 203(a) of the act. Again, some of these were referred to in our earlier testimony.

First: The National Conference of State Legislatures and Senator Morgan in S. 1297 and S. 1598 would require or permit the State legislatures to establish the SPA and possibly place the SPA under the authority of someone other than the chief executive of the State.

Second: The National Conference of State Legislatures would require that the legislatures play a role in planning and priority setting for the Federal dollars.

Third: The National Conference of State Legislatures and the National Association of Counties would require that the SPA supervisory board be comprised of a specified number or percentage of elected officials. The National Conference of State Criminal Justice Planning Administrators is opposed to each of these proposals.

Again, on page 16, the conference believes that one of the strengths of the program to date has been the fact that the SPA's have been created and designated by the Governors and are responsible to the

Governors, subject to their jurisdiction. This, of course, has enabled the Governors to receive criminal justice systemwide advice. As a result of this new resource, the Governors have been better able to exert much more effective leadership in the criminal justice field. In fact, the SPA's have been asked to do more in many States than merely plan for and allocate Federal funds. Some SPA's have been asked to comprehensively plan so as to integrate all resources, Federal, State, and local, into a single planning and budgeting process for the criminal justice system within their States. And that exercise, Mr. Chairman, is currently in effect in a number of States. In some States, SPA's have been asked to operate as agents or arms of the State budget office, to advise that office in the makeup of the budget as it pertains to the administration of justice. In others, the SPA's have been asked to develop critical pieces of legislation and in still others, the SPA's have been asked to advise on administrative changes within the administration of justice field. And in a few States, the SPA's are in fact performing all of these functions.

Now, if one were to place the SPA under the jurisdiction of some official other than the Governor these foregoing benefits might not result, in fact, very likely would not result. The conference is unaware of any facts that warrant the placing of the SPA under any other than the State executive, the chief executive. The Governor is the chief executive. The agency performs executive functions, and therefore, it should continue to be subject to his jurisdiction and direction.

The conference also sees no reason to require that a State legislature establish the SPA by statute—and I say require. The Crime Control Act presently permits a State legislature to establish the SPA by statute, if it so desires, and I am on page 17 of my written statement.

There is nothing to prevent the legislature at present to establish the SPA by statute if it wishes and in fact, close to 40 percent of the SPA's are already established by legislation. The remaining legislatures have had 7 years to act. If they have not established the SPA by legislation by now, I think it can be assumed that there are valid reasons why it has not been done, reasons which certainly do not permit interference by Federal legislative action.

Senator HRUSKA. Mr. Harris, could you suspend for a question at that point?

The provisions in regard to the creation of State planning agencies is to be found in section 203(a). Have you a copy of it there? It is on page 2.

Mr. HARRIS. Yes, sir; I have it.

Senator HRUSKA. And it says that a grant may be made under this act to a State, shall be utilized by the State to establish and maintain a State planning agency. And then these very significant words: "Such agency shall be created or designated by the Chief Executive of the State and shall be subject to his jurisdiction."

Mr. HARRIS. Yes, sir; they are the key words.

Senator HRUSKA. I do not recall that the present language is even permissive as to the State legislature to do it. Under what authority do the States do that?

Mr. HARRIS. There is no language which specifically says they are permitted to do that. There is no language in the act addressing the issue at all. That is what I meant by the word "permit." The phrase designated has been construed by the General Counsel to permit legislatures, if they wish to establish the agencies, so long as the appointments to the board's membership and the directorship of the agency are still made by the Governors. I think there are, in round figures, about 22 States whose legislatures have passed a bill, including my own, establishing the supervisory board and the administrative agency.

Senator HRUSKA. And then the Governor subsequently designated the members, and that is within the purview of the requirement of the law; is that not correct?

Mr. HARRIS. Yes, sir.

Senator HRUSKA. Originally there was a requirement in the draft bill that the legislatures should create the State planning agencies. It was then pointed out that legislatures might not feel they wanted to do it or would not do it expeditiously, and the alternative was suggested that the Governor be empowered to do it by Executive order.

Mr. HARRIS. Correct.

Senator HRUSKA. However, eventually the view was taken, for reasons pretty well set forth in your statement, that they should be under the concentrated and direct supervision of the chief executive of the State. That, of course, is what evolved.

However, with your explanation, I can see how the State legislature would still have a role as long as it is not contrary to any of these provisions.

Mr. HARRIS. Precisely. And in any State in which the legislature has enacted a statute establishing the board and the agency, it provides that the Governor has exactly the authority under that legislation that he has under this legislation. I know of no inconsistencies.

Senator HRUSKA. So that if the legislature does create such an agency and the members designated by the Governor, that would satisfy this statute?

Mr. HARRIS. Yes, sir; and I have absolutely no quarrel with that. And that is why I make the point that in my view, if other States wish to proceed in the same fashion, I see nothing to prevent it. That is why I use the analogy that the act in essence, by being tacit on this subject, does permit it so long as there is no inconsistency between whatever the State legislation involves and the Federal legislation itself, and I know of no instance where that has occurred.

Senator HRUSKA. Thank you for that explanation. You may proceed.

Mr. HARRIS. In light of the frequent Federal and administrative changes requiring modifications of State legislation, it is understandable, in fact, why some State legislatures might be happy not to have to continue to amend their State legislation every several years to conform to the changing Federal requirements. I can speak with some personal experience on that, because as new changes have been

made in the act, we have in fact had to amend State legislation, and if we did not have it, it would be a problem we would not have to wrestle with.

In short, as I said, it is the conference's position that States should be permitted the maximum flexibility, as is the case now, in this particular regard, and therefore the proposals that I have referred to regarding legislative matters should be rejected by this committee.

The conference is also opposed to permitting the legislatures to play an executive role in the planning and priority setting required under the Crime Control Act, and I think the bill by Senator Morgan can be construed as suggesting that that might be the case. Certainly, the statement made by Mr. Ledbetter on behalf of the National Conference of State Legislatures suggested that the legislatures had an executive role to play. We disagree with that. We think that the Crime Control Act presently requires legislative involvement in the program through the appropriation of the matching funds at the State level, and in general oversight because in essence, if the legislature of the State does not appropriate "buy in," then, of course, that reduces the entitlement of that State to its bloc grant, so there is direct legislative involvement already in the existing language.

However, the National Conference of State Legislatures apparently is proposing that Congress go beyond present legislation and map out a role for State legislatures which in my view are unique for any Federal grant-in-aid program other than general revenue sharing. The State legislatures apparently want the "final" word on how the use of crime control moneys can be expended. And it comes right back to the point you made, Mr. Chairman, about the argument that ensued in the early days of the program before the first bill came out. It is the same old argument being rehashed.

And we simply say that the direction Congress took in the initial stage was correct and should be maintained.

The National SPA Conference—I am on page 17—urges Congress to reject proposals to mandate specific quotas for board composition, whether we are talking about regional boards or the State boards. It, therefore, recommends that the last sentence in section 203(a) of the existing act be struck and that suggestions or any suggestions that might be forthcoming in later testimony or otherwise for a requirement that a specified number or percentage of elected officials be on the SPA board or on our regional boards be refused.

In our view, any attempts to establish quotas for any interest group on these boards should be rejected. To mandate specific quotas for board composition is simply to inhibit the selection in many cases of the most qualified persons and jeopardizes the retention of the broad representative character of these boards, which in our view is absolutely essential—that is, the maintenance and retention of the broad representative character.

In some States, in fact, a requirement for legislative or judicial representative raises constitutional questions.

Senator HRUSKA. You call that separation of powers?

Mr. HARRIS. Quite right, the separation of powers doctrine, which is one reason, I assume, why that was not required in the initial amendment of the bill. And you were quite right in not doing so.

Senator HRUSKA. Is it your position, Mr. Harris, that the sentence, the operative sentence in the paragraph preceding that, will adequately take care of the representation of the several component elements of the community?

Mr. HARRIS. Yes, sir; which is essentially, with some modifications, the language that was in the bill in the first place. I think it was modified at least once. It certainly was modified by the Juvenile Justice Act; I remember.

But that phrase, in my view, is perfectly adequate to cover the kinds of representative character that these boards should have, and it should suffice and stand on its own two feet without any addition, unless there are other interest groups in the criminal justice community that need to be addressed, such as was the case with the juvenile justice bill.

It has come to the attention of the national conference that you will receive proposals to change the match provisions of the Crime Control Act.

Among lessons learned in the administration of this program are those related to the ghostly nature of something called "in-kind match." The States have had numerous illustrations that cash match, the real and accountable contribution made by a grant recipient as its commitment to the project undertaken, is far preferable to "in-kind match." In fact, I might add that we were somewhat disturbed to discover in-kind match back on the scene again in the form of the Juvenile Justice Act, although I understand the necessity for having it there.

We also would oppose any change which would limit the State's option to require such match on either a grant-by-grant or aggregate basis. There are numerous cases where grant characteristics and circumstances would require the use of grant-by-grant match to insure fiscal integrity.

Finally, with respect to matching contributions, the State would be opposed to changes in the act to require a State "buy in" on a local project of more than \$5 for every \$90 Federal on all nonconstruction projects, and \$25 for every \$50 Federal for local construction. Those are simply paraphrases of the present provisions of the bill. If in attempting to comply with the assumption of cost requirements in the act, the States ask local subgrantees to provide more than 5 percent of project cost in continuing funding years, the State should not be required to contribute more than the required 5 percent "buy in." In fact, to do otherwise clearly frustrates the intent of the assumption of costs provision—that intent, of course, being to insure that local grantees begin assuming total program costs without, at the same time, increasing Federal assistance.

So when you begin upping the buy-in ante, you begin upping the State assistance and you begin frustrating the assumption of cost, which in my view, as I understand it, is to get the local grantee into a posture of beginning to assume the program within a reasonable time. Since local projects under that assumption of cost provision will ultimately become totally local funded, the State assumption of cost policies that most of the supervisory boards have adopted are designed, of course, to get the localities to begin to make an early substantial investment in these projects.

In summary, Mr. Chairman, the program is fundamentally sound. The system of justice in America today is obviously substantially superior to that which served us a scant 7 years ago.

I thank you for your attention, and I would be pleased to entertain any questions.

Let me add one additional comment, and that is that you may be familiar with the document that our conference prepared in 1973, and in 1970, we called "The State of the States," which was basically a factual document of how the program had been operated in the States to date. We are in the process of preparing that document. Your hearings caught us a little bit off guard in terms of their early date. We have projected a completion date for this project at around the first of the year, so I would simply ask permission to hold the record open long enough for us to complete that project.

We have collected the data. We have worked in conjunction with the Advisory Commission on Intergovernmental Relations in the data collection process, because they too, as you know, are preparing a significant report on the program for Congress. And we would like the opportunity to complete our work on that document and to make it available to you and your committee staff. I think they would find it most useful, and my experience was they found it most useful in past years.

Senator HRUSKA. That is a very good suggestion, and within the limitations of the time frame within which we must operate in regard to this legislation, we would like to accommodate you and include it in the record.

But in any event, it will be placed in the working files of this subcommittee and the committee because I know it will be a good contribution.

I want to say, Mr. Harris, that this is one of the most comprehensive statements of many fine statements that have been submitted to the subcommittee, both favorable and unfavorable.

Mr. HARRIS. Thank you, sir.

Senator HRUSKA. It reflects a great deal of thinking and without reducing in any way the credit that is coming to you personally, I have an idea that the composite judgment of a number of people entered into its preparation.

Mr. HARRIS. It certainly did, sir.

Senator HRUSKA. There is every evidence of good balance and fine, incisive thinking. And we always profit greatly by that combination.

The specific recommendations you make with reference to statutory amendments and regulations and so on, will be noted.

May we direct additional questions to you in writing and you respond at a later time as we analyze the statement in context with other statements on the subject?

Mr. HARRIS. I would be most happy, in fact, I would encourage that you do that, sir. We would be very glad to do that, and I would like to do it.

Senator HRUSKA. Well, I am glad to see your comments on the various activities of the LEAA. There are many who believe that

they have made some very fine achievements. You demonstrated many of them here in your statement. But, among those that are particularly prominent, and I think useful, are the conferences that have been held on the judiciary and on corrections and on organized crime, for example, that we had last week here. Included in that also would be the Commission on Standards and Goals. Do you find that of great interest in your association?

Mr. HARRIS. Yes, sir; very much so, and I noted the comments you made earlier in connection with the witness from the State of Washington and I concur in those wholeheartedly. I think that the membership of that Commission and the manner in which it was structured and the manner in which it has operated and the manner which has made its support, and the manner in which LEAA has dealt with it, in my view, has just been exemplary. I think the attitude of encouraging process as opposed to imposing standards is something that a good number of other Federal agencies could profit from.

Senator HRUSKA. And you called attention to another thing which was a problem up until the advent of LEAA. There never was such a thing as the 50 States, each and every one, having a comprehensive plan for law enforcement. And now they have it, do they not?

Mr. HARRIS. That is right. And that prompts me to say one other thing. We were talking about legislative involvement; you know, if you are going to use the argument, as I suggested, that a legacy that this program should leave is a permanent establishment of that process, and of our type of agency, it is absolutely essential that legislatures be attuned to that idea. And so it has occurred to me that perhaps those States which have involved their establishment of these agencies, probably have gotten a jump on some that have not.

Senator HRUSKA. Thank you ever so much for your participation in this hearing.

Mr. HARRIS. Thank you very much, sir.

Senator HRUSKA. Our next witness will be Philip Elfstrom, chairman of the Board of Supervisors of Kane County, Ill. He represents the National Association of Counties and is the chairman of the Criminal Justice and Public Safety Steering Committee for the National Association of Counties.

Will you identify your associates?

STATEMENT OF PHILIP ELFSTROM, CHAIRMAN OF THE BOARD OF SUPERVISORS, KANE COUNTY, ILL.; ALSO REPRESENTING THE NATIONAL ASSOCIATION OF COUNTIES; ACCOMPANIED BY VALERIE PINSON, LEGISLATIVE REPRESENTATIVE, NATIONAL ASSOCIATION OF COUNTIES; AND DON SCHEIB, CORRECTIONS COMMITTEE, CHAIRMAN, KANE COUNTY, ILL.

Mr. ELFSTROM. This is Valerie Pinson who is the legislative representative for the National Association of Counties, and Mr. Don Scheib our corrections committee chairman for the county of Kane County, Ill.

Senator HRUSKA. I should like to enter a plea of confession and avoidance. There was a time when I was vice president of the National Association of Counties, but it was so long ago that the statute of limitations has run and I am sure the association has forgotten any influence I might have had within the organization.

Mr. ELFSTROM. I understand it was substantial.

Senator HRUSKA. We will put your entire statement in the record and if you will highlight it, please, that would be very helpful.

[The material referred to follows:]

STATEMENT OF PHILIP ELFSTROM, CHAIRMAN, BOARD OF SUPERVISORS, KANE COUNTY, ILL., REPRESENTING THE NATIONAL ASSOCIATION OF COUNTIES

SUMMARY

(1) Reauthorize the LEAA program for five (5) years with suggested improvements.

(2) Extend the block grant through the State to counties and cities by formula allocation enabling them to jointly plan, allocate funds, and implement programs.

(3) Give urban counties the option to receive a block grant, prepare a plan, and submit it directly to the state for funding.

(4) Increase the pass-through portion of Part B planning funds from 40 to 50 per cent.

(5) Include a majority of local elected officials on state and regional planning boards. A majority of the local elected officials on supervisory boards of state planning agencies shall be legislative and executive officials. A majority of all directors on regional boards shall be locally elected legislative and executive officials.

(6) Reduce or repeal categorical sections of the Act, e.g., Part E for corrections, and allocate these monies to Part C block grants.

(7) Increase the block grant portion of Part C from 85 per cent to 90 per cent, reducing the discretionary portion from 15 to 10 per cent.

Mr. Chairman and Members of the Committee: I am Philip Elfstrom, Chairman of the Kane County, Illinois Board of Commissioners and Chairman of the National Association of Counties' Criminal Justice and Public Safety Steering Committee. It is a privilege and a pleasure to present the views of county government on the critical need to reauthorize the LEAA program.

THE LEAA PROGRAM SHOULD BE REAUTHORIZED

County governments have a large stake in the LEAA program as documented by the following facts. We invest county tax dollars in every functional area of criminal justice: policing, prosecution, indigent defense, courts, and corrections. For example, the Bureau of the Census determined that in fiscal year 1973 federal, state, and local expenditures for criminal justice totaled \$13 billion. Only 17 per cent of these expenditures were paid from the federal treasury. Over 20 per cent was paid from limited county revenues. Municipalities accounted for another 40 per cent. This was a total of \$8.1 billion in expenditures financed largely from local property taxes.

Despite very welcome help from revenue sharing, criminal justice is the one item in most county budgets almost entirely financed by local revenues—about 90 per cent in most urban counties. We receive almost no federal or state aid for criminal justice, except through LEAA programs. State and federal assistance does help fund other functions performed by counties such as health, social services, and transportation. We could not provide these services to our citizens without help from the progressive state and federal tax bases. Neither can we expect to improve our crime programs substantially without state and federal aid.

¹ The National Association of Counties has more than 1400 member counties, and represents about 75 per cent of the Nation's population. As the voice of county government, NACo's goals are to: improve county government, act as national spokesman for counties, serve as liaison between counties and other levels of government and develop public understanding of the role of counties in the federal system.

Let me point out a major aspect of the county role in the criminal-justice area. As you know, counties share a number of responsibilities with 6 to 60 municipalities within our boundaries. But cities spend 84 per cent of their criminal-justice dollars on police agencies. Counties outspend cities in courts, corrections, prosecution, and indigent defense. In my county, the police can arrest someone in 20 minutes, obligating the county to 4 months of incarceration, prosecution, defense and adjudication for that same individual.

Taken together, counties and municipalities make up a complete criminal-justice system in most states. In fact, 70 per cent of all state and local expenditures come out of local government revenue sources. These facts lead us to two (2) conclusions about the county role in criminal justice:

(1) County governments expend significant amounts of the local taxpayers' money on criminal-justice activities with little state or federal aid;

(2) Counties and municipalities jointly share the responsibility for maintaining local criminal-justice programs, facilities and agencies, and together fund the bulk of the system.

These conclusions lead us to recommendations for reauthorizing and reworking the LEAA Program.

WE SUGGEST IMPROVING THE LEAA PROGRAM

The Omnibus Crime Control and Safe Streets Act of 1968 (as amended) should be reauthorized for five years and the appropriations increased. Congress reasoned that crime is essentially a state and local problem, and that with financial assistance from the federal government, state and local governments could develop methods aimed at its solution. It is difficult to understand why the 1976 appropriations for state and local programs were reduced 17 per cent at the same time economic difficulties impede dealing with a rising crime rate. Money alone is certainly not the answer to crime reduction. But the LEAA program gives us valuable planning assistance in addition to badly needed funds. With increased planning capability, we can make the best use of existing resources. Unfortunately, the state planning agency exercises most of the prerogatives, leaving little discretion to the local planning units on the allocation of funds. While we advocate state review of local plans, we want to eliminate long funding delays, duplication of effort, bureaucratic red tape and arbitrary state policies. Crime is an ancient problem and the LEAA block-grant program is relatively recent. While we search for local programs that affect crime rates, we must still, in the meantime, deal with increasing numbers of crime reports and arrests. Crime reduction is still on the research end of our funding spectrum. The bulk of LEAA funds must be spent on system changes that will help local officials deal more efficiently and rationally with those who come in contact with the local criminal-justice system.

Some of the programs started with LEAA funds proved to be effective in reducing crime, but we need to evaluate them on a broader scale over a longer period of time. For example, in Kane County we built a diagnostic center for juveniles with 90 per cent LEAA funding in 1973. The Center works with the Juvenile Probation Department in a three-county circuit court. Specifically, the Center helps the Juvenile Intake Officer divert juveniles from the court into local agencies that can help them. In 1973, only 18 per cent of juveniles referred to the court were diverted. By 1975, the Diagnostic Center had increased the diversion rate to 55 per cent. We are now analyzing the data to determine if diversion affects recidivism rates. We need to know how many kids stay out of trouble due to diversion and referral to a local agency, before we can say we have reduced crime. But meanwhile, we have improved the system to give individualized treatment to juveniles who previously sat idly in detention centers.

EXTEND FORMULA BLOCK GRANTS THROUGH THE STATES TO COUNTIES AND CITIES

NACo recommends that Congress adopt badly needed changes in federal legislation to enable local governments to make system improvements. A provision that would extend block grants to local governments is imperative.

County officials throughout the country complain to NACo that they follow every written policy and adhere to all the guidelines set down by the state-

planning agency but their projects are rejected for funding under some unknown, unwritten policy suddenly issuing from a state supervisory board meeting. One planning region in Virginia told NACo that out of a target allocation of \$90,000 only \$43,000 was actually approved, even though the local planning commission had submitted projects for the full \$90,000 within written state policies.

A county in Nebraska told us that a grant for nearly \$120,000 was disapproved twice by the local planning board. It was obvious to local officials that the project was ineffective. But, the State Crime Commission overrode local officials and ordered the project funded. State planning agencies often discourage state and local cooperation and inhibit development of local planning capability. But they have the potential to provide valuable assistance.

Of course, there are two sides to the story. State agencies accuse regional planning units of being "rubber stamps," and of passing all applications presented to them, thus creating a huge work-load for the state. But the regional planning units know that their decisions pro or con do not actually distribute any monies. They have been asked to shoulder a responsibility and have not been given the means to meet that responsibility. Regional planning unit members have no reason to deny approval of any application, since their decision does not profoundly affect the ultimate funding of the application.

One of the worst faults of our present arrangement is that sooner or later it forces abandonment of the central idea of planning: that each decision be carefully weighed and decided according to objectives and goals to be attained. The heavy workload assigned by state planning agencies sooner or later forces that body to approve or disapprove applications without the careful consideration consistent with good planning. This unavoidable neglect frustrates and disappoints regional personnel. Planning becomes a guessing game. Applications that seem justified are refused, and applications that seem lower in priority are funded. Local planners tend to feel they are operating in the dark with no reason to believe any of their proposals will be funded.

NACo firmly believes that these problems would be resolved and both state and local interests would be served if block grants were extended through the state to local governments. Block grants should be awarded in formula allocations to local planning regions, just as formula allocations are now made by LEAA to the states.

The state planning agency should review local plans and encourage a rational planning process, rather than inspecting each individual project and resetting priorities that were set locally. We view the block grant as offering a local option. Planning regions that do not wish to accept the responsibility could waive their planning funds and leave funding allocations to the state if they choose.

Block grants to local planning regions would speed up the funding process and cut red tape. The state planning agency would have one plan to review for each region rather than 20 or 30 projects. State planning agencies could concentrate on conducting research; setting broad, clear policy guidelines; delivering technical assistance; planning for state agencies; and compiling local plans into a comprehensive state plan.

It always amazes me that we expect an official from another part of the state to know my county's top priority. We cannot initiate a rational planning process, nor prepare to assume the costs of an LEAA-funded program unless we have the discretion to allocate funds within our local planning units.

GIVE URBAN COUNTIES THE OPTION TO WRITE THEIR OWN CRIMINAL-JUSTICE PLAN

To give special attention to urban areas with high population density and crime, NACo recommends that all urban counties with planning capabilities have the option of forming their own planning unit, receiving block grants, and submitting plans directly to the state. My county has a population of over 264,000 and at different times we have worked with both a multi-county planning region, and a single-county crime commission. For a county of my size, I definitely prefer a single-county planning unit. We can develop a rapport with the criminal-justice agencies and municipalities and concentrate on improving one criminal-justice system rather than several. We received about \$800,000 in LEAA funds last year, and they are well-distributed

throughout the system. About 29 per cent was used to equip a progressive new county jail. Over 14 per cent was used to improve court services, over 15 per cent went into a diagnostic and referral program for adults awaiting trial, about 9 per cent boosted the public defender program, 26 percent assisted municipal police projects. This includes a crime prevention bureau, a tri-city centralized dispatch unit, and a police community-relations program. We gave 6 per cent to a United Way organization for a youth services bureau.

This allocation of funds fit our needs, goals, and objectives, one I feel confident justifying to the taxpayers when the time comes to fund these projects with county revenues. This was not often the case when we were part of a multi-county region, and not true at all when the state set our priorities for us.

INCREASE PASS-THROUGH UNDER PART B

We recommend a change in the Part B pass-through formula for planning to give local units a minimum of 50 per cent, rather than 40 per cent. Since crime control is shared by state and local governments, and since local governments fund the bulk of the system, planning funds should be shared equally. We feel that the growing capability of local planning units to provide planning assistance directly to local government should be assisted by additional funds.

INCLUDE MORE LEGISLATIVE AND EXECUTIVE OFFICIALS ON STATE AND LOCAL PLANNING BOARDS

Another recommendation we feel would substantially improve the LEAA program is requiring a majority of local elected officials on the state supervisory board. Since 70 per cent of the state and local costs are borne by local governments, and the same percentage of LEAA funds are passed through to local governments, local officials should determine state planning agency policies. We feel a majority of the local elected officials on state boards should be legislative and executive officials, such as county commissioners and elected mayors and city councilmen. Local planning boards must be composed of a majority of legislative and executive officials. Since these officials allocate local government revenues, they should approve the local allocation of LEAA funds. However, we also welcome the input of criminal-justice professional and private citizens. Representatives of these two groups should also sit on state and local boards

REDUCE OR REPEAL CATEGORICAL SECTIONS

The tendency to categorize the LEAA program into special sections for courts or corrections or high-crime areas seriously undermines the block grant concept originally embodied in the legislation, and local attempts to develop comprehensive planning. Unless we can bring all issues before a body of local elected officials who control the purse strings and give these officials some discretion in allocating funds, we cannot begin to devise effective programs to deal with crime. After all, LEAA pays less than 7 per cent of our criminal-justice expenditures. If local governments are expected to take over funding LEAA programs, they must endorse them from the beginning.

A special section for courts is anathema to the planning process we have built under seven years of the LEAA program. One of the early benefits of the program was the coordination achieved by getting police chiefs, judges, prosecutors, general elected officials and others together into a forum to discuss local issues. Many of these forums have evolved into service organizations that plan, coordinate, evaluate, develop, and operate programs, and form policy alternatives.

With the help of the LEAA program, we are at the threshold of achieving real coordination and rational planning never before possible. We are beginning to use local planning units to help us make the best use of revenue sharing and other funds. This trend will be halted if local planning units are restricted by narrow predetermined categories or maintenance-of-effort requirements. Whether these categories are determined by LEAA, the state planning agency, or the state chief justice, they ignore the wide difference among localities within a state and those local officials who are accountable for revenues spent on unique problems in their jurisdictions.

INCREASE PART C BLOCK-GRANTS—REDUCE DISCRETIONARY GRANTS

The block-grant portion of Part C should be increased from 85 per cent to 90 per cent. This adjustment would reduce the LEAA discretionary portion from 15 to 10 per cent and allow more funds to flow to urban areas by formula allocation. We agree with Administration bill and other groups that high-crime areas deserve special attention. However, we are opposed to providing a special category of funds for this purpose. We recommend that high crime-rate areas be funded according to an equitable formula set by each state for the entire state. Since defining a high crime-rate area is a difficult task, and since crime displacement to the suburbs is a fact in many metropolitan areas, we cannot recommend a special category in the act for high crime-rate areas. In the past, high crime-rate areas have been defined as cities, ignoring shared county/city responsibility for the criminal-justice system. A special high crime-rate category would complicate an already complicated program with new sets of guidelines, assumptions of cost requirements, etc. All funds to localities should be included in the Part C category and distributed by formula with simplified, clearly-stated guidelines.

We support the provisions in the Administration bill that discourage further categorization of the Act. Nevertheless, we would go further, and recommend the repeal of Part E for corrections.

Funds now allocated to Part E should be folded into the Part C block-grants that go to state and local governments. A pass-through formula commensurate with local expenditures could then be used to distribute these funds. NACo recently analyzed Part E grants going to state and local governments. We found that only 23 per cent of the funds were awarded to counties, despite the major local responsibility we have for corrections. The state governments kept 74 per cent, principally for state institutions.

We think the idea of dispatching funds to state and local governments for systematic improvement of the criminal-justice system is essentially sound. The most efficient dispatching of these funds is the block-grant. But critics of the LEAA program think improvements can be achieved through narrowing block grants into categorical grants, and shackling grant recipients to their own pet notions of crime control or social theory. We think otherwise. The block-grant system itself can be made more efficient by extending an un-categorized package of money to regional planning units, the appropriate level for municipality and county to sit together and plan a strategy for the criminal-justice system.

We think with the small but vital LEAA contribution to local criminal-justice outlays, we can try out and evaluate new approaches to reach our long-standing goals: reduction of crime and efficient administration of justice. We know now what does not work. We know some approaches that promise success. We must continue to seek approaches that work. The search can go on with the help of an improved LEAA program.

Mr. ELFSTROM. I will try to be very brief.

Senator HRUSKA. I noticed you have thoughtfully furnished a summary of your testimony.

Mr. ELFSTROM. I think the crux of the county position, Mr. Chairman, is that county governments have a large stake in the LEAA program, as documented by the following facts. We invest county tax dollars in every functional area of the criminal justice system; police, prosecution, public defender, courts, and corrections. As an example, the Bureau of the Census determined that in fiscal year 1973, State and local expenditures for the criminal justice system were \$13 billion. Only 17 percent of these expenditures were payback from the Federal Treasury. Fully 20 percent were paid from the limited resources of county government. Municipalities accounted for another 40 percent.

This was a total of \$8.1 billion in expenditures, financed largely from the property tax.

Now, the recommendations that I will cite here are based upon that fact: local government is paying for a large share of the criminal

justice system, and the man that pays the orchestra gets to decide the selections it will play.

One of the major points I would like to make is that counties and cities are irrevocably tied together. In fact, they are a criminal justice system in most areas of this country of ours. The cities, by and large, furnish the front end money. They go out and capture the criminal. Sometimes we in county government feel that that is the cheapest end because once they have captured that criminal we generally have to provide 4 or 5 months of incarceration, public defense, prosecution, and so forth.

So, the two systems are interrelated. We cannot fund catching more criminals and not fund the process that takes place after the criminals are caught. One of our recommendations in county government is to extend the formula block grants through the States to the counties and cities. Once again, the premise for this is that we fund such a large percentage of the criminal justice system. The regional planning boards and the county planning boards frequently have to decide upon the priorities of their administration, of their particular areas or counties.

What frequently happens is that we are trying to identify what the State wants. So, rather than establish the priorities that we think best, we try to come up with the sex appeal articles that the State indicates it is interested in funding.

What we generally end up doing on the regional commissions is approving all grants, just because we know we do not have any particular input and that the State will decide. So, the approach of local government now is to approve everything, send it up to the State to decide what is going to be funded. Actually, this is making the regional planning agencies irresponsible. If a specific amount of money were designated for our region or county—or for a city that was a region—we would then have to make the hard decisions locally. We would also be able to set priorities for that area.

It has been stated this morning that the States regard the Federal Government with a certain amount of suspicion, especially their ability to designate the high-priority programs. And I think that I should also mention that counties and cities also regard the States with similar suspicion. We say they do not always know at the State capital exactly what is best for local government.

The counties' position is that urban counties, with their communities, should be granted the right to form regional planning units. Frequently, we are forced to join bigger regions. When the urban counties—with their cities, I might add—have sufficient planning capability to fulfill the function, we think they ought to be designed as planning units and consequently, have the option to write their own particular county plan.

Another recommendation is to increase the passthrough of part B funds. We are funding a large part of the criminal justice system, and need to plan how we will allocate our resources. Part B funds are the planning funds. We need more of that money. NACO recommends that the passthrough to local governments and regions be 50 percent rather than 40 percent, which is now in effect.

I heard some exception taken to the legislative and executive officials on State and local planning boards. It is a recommendation of NACO that the State planning boards be composed of 50 percent locally elected officials and that 50 percent of those, or 25 percent, should be policymaking officials. The rationale for this is that these people have to come up with the money. These are the people who must tax the property taxpayer. They must furnish 50 percent of the funding for most matching grants. And if we are going to have to pay, we certainly want substantial representation on the State planning commission.

I think that leaves ample room for many other people who are contributing far less in dollars to the criminal justice system than local government.

Senator HRUSKA. Mr. Elfstrom, in the act, relating to that 40 percent in section 203(c)—the language is that there be provided at least 40 percent. Notwithstanding the fact that it can be more, do you still make your recommendation that it be changed from 40 to 50?

Mr. ELFSTROM. We would like it changed from at least 40 to at least 50.

Senator HRUSKA. You are aware of the fact that it is at least 40 and can be exceeded if the State so desires?

Mr. ELFSTROM. Yes, sir, and some States have been very good at that. They have allocated it, but some States have kept a majority of it for themselves.

We support the reduction or repeal of categorical sections. I do not think we are in opposition to anybody here that has testified prior to this. We cannot, in the wildest dreams of our imagination, imagine putting a special section in for courts. One of the outstanding benefits that has happened from the LEAA planning procedure is the courts with the rest of the criminal justice system have been forced to sit down and decide together. I think this has improved the entire planning process for the criminal justice system.

NACO also recommends increasing part C bloc grants and reducing discretionary grants. We feel the discretionary grants should be limited to 10 percent rather than the present 15 percent. We do feel that the urban areas, or, as identified by one bill, the high crime rate areas, which in fact may not be urban areas, as pointed out by the State's attorney of Washington, should be identified. We feel that through State and regional plans we can identify them. Some of that discretionary money can be then put right into the system, rather than allocated by LEAA.

Basically, we think the idea of dispatching funds to State and local governments for systematic improvement of the criminal justice system is essentially sound. We certainly support the refunding of the program. We would recommend 5 years. The critics of the LEAA program think improvements can be achieved through narrowing bloc grants into categorical grants and shackling grant recipients to their own pet notions of crime control or social theory.

Actually, we think otherwise. The bloc grant system itself can be made more efficient by extending an uncategorized package of

money to regional planning units, the appropriate level for municipality and county to sit together and plan a strategy for the criminal justice system. And, as I said before, they are inseparable. We think the small but vital LEAA contribution to the local criminal justice outlay is important. We can try out and evaluate new approaches to reach our longstanding goals; the reduction of crime and efficient administration of justice.

We know now what does not work. I think we have established many innovative programs that hold hope of working. We know some approaches that promise success. We must continue to seek these because we are spending, in my county alone, 55 percent of our total revenue on the criminal justice system. And I think with the LEAA program refunded for a long enough period so that we can do some comprehensive planning, the county government and municipalities will make a big inroad.

Thank you, Mr. Chairman.

Senator HRUSKA. It has come to the attention of this subcommittee that Kane County recently dedicated a correctional facility.

Mr. ELFSTROM. Yes, sir.

Senator HRUSKA. And that it was a joint enterprise.

Mr. ELFSTROM. That was a cooperative effort from virtually everybody that I ever talked to.

Senator HRUSKA. Could you describe it briefly for us—not too long, but give us a characterization.

Mr. ELFSTROM. The motive of it is—and I think it is proper—that there are two to three things that you have to have in a county institution. The county institution is generally the first offenders' introduction into the law enforcement system.

We feel that actually we can do a great deal more in rehabilitation and turning this person away from a life of crime than the State penitentiary.

We built an institution that provides for—and the other thing about a county jail I have to interject is, we handle everybody; we handle people who cannot make their alimony payments, we handle vicious criminals, we handle ladies of the street, drunks. So the county jail is really a composite society.

But, as I started to point out, it is really a person's first introduction to the criminal justice system—at a time we feel we can turn these people around. In the institution we have the physical setup to provide a program for libraries, a certain amount of recreation, technical classes of one sort and another, vocational training.

Quite frequently, I am told by people that know more about it than I do that if you can teach a kid how to make change, you can at least make a gas station attendant out of him. In the county jail, we get kids that cannot count money. And so we feel that the local county jail—and we have an institution we are proud of; physically it is there—and now we are hoping that we are capable of running it as it should be run.

Senator HRUSKA. Do you have a work release program?

Mr. ELFSTROM. The work release program is not instituted. We have only been in the jail for two weeks.

Senator HRUSKA. Did you have such a program before?

Mr. ELFSTROM. No, we did not.

We had an institution that was built in 1897, and it was a cage. And we feel we have made a big step forward, and I think because we are offering the first offender—and that is where he comes, to the county jail—we are offering a chance to rehabilitate, that we are going to turn a great many people in the system around in the early stages of the system and not wait until they get into the Federal penitentiary.

Senator HRUSKA. There has been some testimony here about match money for LEAA funds.

Do you have any comment on that? You heard what was said by the witness from Virginia, for example.

Mr. ELFSTROM. I think when we devote county personnel or city personnel time to a program that is primarily administrative in nature, then the soft match is appropriate.

When you get into hardware and some of the existing programs, I believe it should be hard match—if I am commenting on the correct part.

Senator HRUSKA. You are in a rural or suburban area. Has there been any impact of LEAA insofar as coordination of the several police and law enforcement agencies are concerned within that area?

Mr. ELFSTROM. On our county planning board, for the county that I represent, we have two chiefs of police, one mayor, one city councilman, the State's attorney, several members of the county board.

Senator HRUSKA. And they function countywide?

Mr. ELFSTROM. They function countywide, yes sir.

Senator HRUSKA. Do they also establish communication—I do not mean by radio and that, but otherwise—with surrounding and joining counties?

Mr. ELFSTROM. Yes, sir.

We are also part of another region that is around Chicago that is called the Crescent Region, and they meet on a regular basis and try to unify the grants of individual counties, of the five counties; all of which are urban, all of which are over 250,000, into some sort of comprehensive program.

Senator HRUSKA. I have received a telegram from the Honorable Edward Zorinsky, mayor of the city of Omaha, endorsing your statement. I will ask that this be inserted at the conclusion of your testimony. Well, we thank you very much for coming.

Mr. ELFSTROM. Thank you, Senator.

Senator HRUSKA. When is your next meeting of the Legislative Committee of the National Association of Counties?

Mr. ELFSTROM. March, sir.

Senator HRUSKA. If you have any pertinent deliberations or resolutions on this subject from your latest meeting, will you favor us with copies?

Mr. ELFSTROM. We would be very happy to do so.

Senator HRUSKA. And we may have additional questions to submit in writing for your reply.

Mr. ELFSTROM. We would be glad to reply.

[The information referred to follows:]

[TELEGRAM]

OMAHA, NEBR., October 7, 1975.

VALERIE PINSON,
Washington, D.C.

The mayor and the members of the Omaha City Council unanimously endorse the amendment to the Crime Control Act of 1973 proposed by the National Association of Counties especially NACO amendment 7 dealing with section 33 (A) (4) (A) providing for formula allocation of funds to units of general local government.

EDWARD ZORINSKY,
Mayor, City of Omaha.

Senator HRUSKA. Our next witness is Mr. Karl MacFarlane on behalf of the National Association of Regional Councils.

Thank you, Mr. McFarlane, for being here. Would you identify your associate who accompanies you?

STATEMENT OF KARL O. MacFARLANE, NATIONAL ASSOCIATION
OF REGIONAL COUNCILS; ACCOMPANIED BY JOHN PICKELNER,
MEMBER, LEGISLATIVE STAFF, NATIONAL ASSOCIATION OF
REGIONAL COUNCILS

Mr. MACFARLANE. Yes sir.

This is Mr. Joel Pickelner who is a member of our legislative staff of the National Association of Regional Councils.

Senator HRUSKA. Fine.

You have filed a statement with the committee as required by our rules. Would you like to highlight it, or do you want to read it?

It will be incorporated into the record in full, but you may do as you choose.

Mr. MACFARLANE. Thank you. I will skip some items, and try to hit the important items in the document.

Senator HRUSKA. Thank you.

[The prepared statement of Karl O. MacFarlane follows:]

STATEMENT OF KARL O. MACFARLANE ON BEHALF OF THE NATIONAL ASSOCIATION
OF REGIONAL COUNCILS

Mr. Chairman and Members of the Committee: It is a great privilege for me to testify before the distinguished members of this subcommittee. I am here on behalf of the National Association of Regional Councils and as a member of the Wasatch Front Regional Council. I am also Vice Mayor of the City of Ogden, Utah, and Second Vice President of the National Association of Regional Councils.

Let me begin with some introductory comments about our organization to make clear our point-of-view. The National Association of Regional Councils was initiated in 1967 to assist elected officials of general purpose local governments in organizing the rapidly growing number of regional councils.

Simply summarized, regional councils are organizations of general-purpose local governments which serve a regional community comprising several councils and a number of cities. More than 675 councils exist both in densely populated metropolitan areas and in sparsely populated rural areas. Their prime purposes are to deal with problems that cross city and county boundaries and impact an entire region. Specifically, to increase communication, cooperative decision making and coordination among local governments and

state government; to review and comment on certain federal grant applications to assure federal funds are used efficiently and effectively; and to develop policies and programs to meet mutual problems and guide orderly development. Regional councils are governed by the local elected officials from member-jurisdictions.

NARC is a national membership association of regional councils. Our Board is composed of local government elected officials and other regional council policy Board members, as well as representatives from the Boards of the National League of Cities and the National Association of Counties.

Now let me comment on the Crime Control Act of 1973. The overall goals of the Crime Control Act of 1973 were to reduce crime and delinquency and improve the criminal justice system.

While we have certain reservations on many of the Law Enforcement Assistant Administration's performance of the program, we do support an extension of the program as requested by the Administration.

One point we cannot lose sight of as we review the LEAA program is the fact that substantial resources are used in state and local law enforcement and criminal justice activities beyond those provided through the Crime Control Act. While our criticism is directed at the LEAA program, which is a small portion of all criminal justice system expenditures, it may be necessary to give more attention to the larger system and how well it is functioning. Certainly the LEAA program, to date, has not substantially changed the system and its functioning. As a local elected official, I am concerned that our law enforcement and criminal justice system is operated by the professionals and frequently it is difficult for us to impinge on their traditional approaches and policies. Thus the LEAA funds may be used more for supporting hardware and traditional programs rather than innovative or experimental programs to fight crime or improve the administration of justice.

In the past we have suggested one way to get more innovation and change is to assure greater involvement of elected officials of general purpose government rather than just the professional or elected law enforcement and judicial officials. Even though you did attempt to encourage greater representation of general purpose elected officials at the regional/areawide planning level, we have found that LEAA has not interpreted your amendments to the Act to express a preference for elected officials who are the chief executive and legislative officials of local government.

We interpreted your amendment to mean that Congress intended that mayors, county commissioners and city councilmen were to comprise the majority of members on regional governing bodies and receive proportional representation on state planning units.

NARC has recently completed a survey to determine the composition and membership of state criminal justice agency governing bodies. These planning groups define the types of projects and priorities of funding; they are pivotal in determining the nature and type of projects to be funded. The preliminary results of the survey indicate that at least 17 states are not in compliance with the Crime Control Act of 1973, nor are they in compliance with LEAA Regulations concerning the representative character of state planning agency governing bodies as we understand them. Of the thirty states where we have obtained information to date, thirteen state planning agency governing bodies had at least thirty percent local elected official representation; the remaining seventeen states had less than 30 percent and, in fact, four states had less than 15 percent local elected officials on the state planning agency governing bodies. These percentages are based on the LEAA more liberal definition of local elected officials which include elected law enforcement and judicial officers. These results are due, to a large degree, to the interpretation in the term "local elected officials" as contained in Section 203(b) of the Act, as amended. In legal opinions No. 75-10 and 75-14 the LEAA, Office of the General Council have interpreted this term to encompass such officials as sheriffs, judges and district attorney. As a result, the regional and state planning agencies have an inordinate amount of law enforcement and judicial officers who are there as "local elected officials". We firmly believe that these type officials have a proper and necessary role in their planning processes. But we believe they have particular narrow interest which do not depict necessarily the positions of elected officials of general purpose local government who are either executives or legislative members of these

governments. And for this reason we urge also that the composition of the state planning agency be made up also of a majority of local elected executives and legislative officials of local general government from the regional planning units in the state.

If local elected official representation was determined on what NARC believes is a more appropriate definition, that is, local elected officials of general purpose local government, the adequacy of representation on state planning agency governing bodies is even less. Only three states have provided 30 percent representation on the state body.

Therefore, we urge the Subcommittee to amend Section 203(b) to insert the words "a majority of local elected executive and legislative officials of general purpose local governments".

In our testimony before this committee two years ago, we recommended also that the state be required to pass through more than 40 percent of the allocated planning monies to local governments and regional councils. We want to reiterate that recommendation. NARC believes that the states have an obvious role in establishing policies and statewide priorities, but we do not believe that this planning responsibility should entail up to 60 percent of the available planning funds. As a minimum, the allocation should be reversed; the states should have no more than 40 percent and the remaining funds should go to local and regional efforts.

Please indulge me in one final point, Mr. Chairman. Since the beginning of the criminal justice planning program instituted in each state the time frames for planning and action programs have caused serious scheduling problems at the state, regional and local level. This is attributed to three major factors:

1. LEAA program guidelines and the Act itself require the submittal of action plans on an annual basis. Each year more requirements have been added to the action plans' guidelines.

2. LEAA has frequently changed its deadlines for submission of the plan, usually requiring it earlier than in previous times. After being changed several times in 1969 and 1970, the deadline by which the states had to submit their annual plan was held constant at December 31 for several years. Recently, LEAA moved that deadline up to September 30, 1975, for the 1976 plan and is requiring that the 1977 plan be submitted by July 1, 1976.

3. Because of the large numbers of both public and private agencies that are involved in the criminal justice system and are affected by the planning coordination process, many efforts are needed to ensure their involvement, input, and in some cases their approval.

In order to mitigate these problems we suggest that the Act be amended to require a three-year planning cycle with an annual review of the plan which would become the annual expenditures plan. This would not only eliminate the "grab-bag" type of procedures now in operation in many states, and it would also cut down some of the tremendous workloads being handled by many state and regional criminal justice planning agencies.

In summary I would like to make a few concluding remarks and observations. In most states there is still too much control of the LEAA program by the state criminal justice planning agency. Frequently the staff of that agency is dominating the decisions relative to program priorities and directions. Then too the involvement of planning committee members at the state level includes the law enforcement professionals and constitutional officers as well as elected officials who constitute the criminal justice system. There must be more involvement of the chief elected officials of our state and local governments in the process. There must also be more participation and involvement of the local government at the regional scale in determining program needs and priorities. The local and areawide levels should have greater weight in the state plan and priorities.

I know that you will receive requests for greater support of large city and county LEAA planning efforts. Certainly more capability is needed at the local level, but I hope that you will continue to support the need for regional multijurisdictional planning and coordination. The operation and cost effective aspects of the criminal justice system can only be planned and coordinated on a regional scale. Then too we are all increasingly aware that more and more attention must be given to crime in our suburbs, small towns and rural areas.

I appreciate this opportunity to present our views on this program.

Mr. MACFARLANE. To further identify myself, I am the second vice president of the National Association of Regional Councils; I am a member of the Wasatch Front Regional Council, which represents 700,000 people in the State of Utah; and I am the assistant mayor of Ogden City, one of the member cities in that Regional Council.

The National Association is an organization of local elected officials, city and county people, banded together to better serve those people who are working with regional regions.

Today we are here to react. We have reservations about the Law Enforcement Assistant Administration's performance of the program, but we support the extension of that program.

One point we cannot lose sight of as we review the LEAA program is that substantial resources are used in State and local enforcement and criminal justice activities beyond those provided through the Crime Control Act.

While our criticism is directed at the LEAA program, which is a small portion of all criminal justice expenditures, it may be necessary to give more attention to the larger system and how well it is functioning. Certainly the LEAA program to date has not substantially changed the system and its functioning.

As a local elected official, I am concerned that our law enforcement and criminal justice system is operated by the professionals, and frequently it is difficult for us to impact on their traditional approaches and policies. Thus, the LEAA funds may be used more for supporting hardware and traditional programs than the innovative or experimental programs to fight crime or improve the administration of justice.

In the past we have suggested one way to get more innovation and change is to assure greater involvement of the elected officials of general purpose government, rather than just the professional or the elected law enforcement and judicial officials. Even though you did attempt to encourage greater representation of general purpose elected officials at the regional-area-wide planning level, we have found that the LEAA has not interpreted your amendments to the act to express a preference for elected officials who are the chief executive and legislative officials of local government.

We interpreted your amendment to mean that Congress intended that mayors, county commissioners and city councilmen were to comprise the majority of members on regional governing bodies, and receive proportional representation on State planning units.

NARC has recently completed a survey to determine the composition and membership of State criminal justice agency governing bodies. These planning groups define the types of projects and priorities of funding; they are pivotal in determining the nature and type of projects to be funded.

The preliminary results of the survey indicate that at least 17 States are not in compliance with the Crime Control Act of 1973, nor are they in compliance with the LEAA Regulations concerning the representative character of State planning agency governing bodies as we understand them. Of the 30 States where we have obtained information to date, 13 State planning agency governing bodies had at least 30 percent local elected official representation. The

remaining 17 States had less than 30 percent, and, in fact, four States had less than 15 percent local elected officials on the State planning agency governing bodies.

These percentages are based on the LEAA more liberal definition of local elected officials which include law enforcement and judicial officers. These results are due, to a large degree, to the interpretation of the term "local elected officials" as contained in section 203(b) of the act, as amended.

In the legal opinions, Nos. 75-10 and 75-14, the LEAA Office of the General Counsel interpreted this term to encompass such officials as sheriffs, judges and district attorneys. As a result, the regional and State planning agencies have an inordinate amount of law enforcement and judicial officers who are there as local elected officials.

We firmly believe that these type officials have a proper and necessary role in their planning processes. But we believe they have particular narrow interests which do not depict, necessarily, the positions of elected officials of general purpose local government who are either executives or legislative members of these governments. And for this reason, we urge also that the composition of the State planning agency be made up also of a majority of local elected executives and legislative officials of local general purpose government from the regional planning units in the State.

If local elected official representation was determined on what NARC believes is a more appropriate definition—that is, local elected officials of general purpose local government—the adequacy of representation on State planning agency governing bodies is even less. Only three States have provided 30 percent representation on the State body.

Therefore, we urge the subcommittee to amend section 203(b) to insert the words, "a majority of local elected executive and legislative officials of general purpose local governments". And we would like to emphasize that point—that, after all, in paying the cost of crime prevention and crime control, it is basically the local elected official who is raising the money and making the determination, budget-wise, as to where those moneys are spent.

And if we have that responsibility, it seems to us that we should have the opportunity to give some direction as to where the experimental phase of the test programs, where we would try to accomplish something a little bit better. Because the thing that has happened today—it is a process of grantsmanship; if you know the right people and you get there at the right moment, you may sell your program. But it is not necessarily the best program, it is just the one that got sold that day.

In our testimony before this committee 2 years ago, we recommended also that the State be required to pass through more than 40 percent of the allocated planning moneys to local governments and regional councils. We want to reiterate that recommendation. NARC believes that the States have an obvious role in establishing policies and statewide priorities, but we do not believe that this planning responsibility should entail up to 60 percent of the available funds. As a minimum, the allocation should be reversed; the States

should have no more than 40 percent, and the remaining funds should go to local and regional efforts.

Please indulge me in one final point, Mr. Chairman.

Since the beginning of the criminal justice planning program instituted in each State, the time frames for planning and action programs have caused serious scheduling problems at the State, regional and local level. This is attributed to three major factors.

One, LEAA program guidelines, and the act itself, require the submittal of action plans on an annual basis. Each year more requirements have been added to the action plans guidelines.

Two, LEAA has frequently changed its deadlines for submission of the plan, usually requiring it earlier than in previous times. After being changed several times in 1969 and 1970, the deadline by which the States had to submit their annual plan was held constant at December 31 for several years. Recently, LEAA moved that deadline up to September 30, 1975 for the 1976 plan, and is requiring that the 1977 plan be submitted by July 1 of 1976.

Three, because of the large numbers of both public and private agencies that are involved in the criminal justice system and are affected by the planning coordination process, many efforts are needed to insure their involvement, input, and, in some cases, their approval.

In order to mitigate these problems, we suggest that the act be amended to require a 3-year planning cycle with an annual review of the plan which would become the annual expenditures plan. This would not only eliminate the grab-bag type of procedures now in operation in many States, it would also cut down some of the tremendous workloads being handled by many State and regional criminal justice planning agencies.

In summary, I would like to make a few concluding remarks and observations.

In most States there is still too much control of the LEAA program by the State criminal justice planning agency. Frequently, the staff of that agency is dominating the decisions relative to program priorities and directions. Then, too, the involvement of planning committee members at the State level includes the law enforcement professionals and constitutional officers as well as elected officials who constitute the criminal justice system.

There must be more involvement of the chief elected officials of our State and local governments in the process. There must also be more participation and involvement of the local governments at the regional scale in determining program needs and priorities. The local and arcawide levels should have greater weight in the State plan and priorities.

I know that you will receive requests for greater support of large city and county LEAA planning efforts. Certainly more capability is needed at the local level, but I hope that you will continue to support the need for regional multijurisdictional planning and coordination.

The operation and cost effective aspects of the criminal justice system can only be planned and coordinated on a regional scale.

Now I think one point needs to be made. The criminal does not

recognize city lines or county lines, and we have to look at this on a regional scale. In my area we have been doing some of these things and we have been looking on a broader scale—I do not think broad enough yet, because I have run into the problem of representation; I have not convinced them all yet. But the criminal does cross those lines, and we have to plan across those lines, and that is why we need this approach to the planning which goes into it.

But I think that the people who have to raise the money to pay the bill, when the program phases out, have to be committed in the beginning. And so they have to have some input into the planning process so that they can do this.

Senator HRUSKA. Well thank you for your very constructive statement. There are a number of ideas in there that will be very helpful to us; some of them are at variance with other testimony, which is natural of course.

One point that you do make which impresses at least one member of our subcommittee is that one that deals with that 3-year planning cycle. You heard the testimony earlier this morning about the burden placed upon an annual plan being submitted each year in complete form.

One of the methods of dealing with that was to proceed on the basis of a set of amendments that would attach themselves to the previous year's plan. Yours has some merit that other suggestions do not have.

In other words, there would be a 3-year span there, and it would help a great deal to enable planning, both of the budgeting authority as well as personnel training and so on.

Mr. MA FARLANE. Well I chair an A-95 review committee that has these programs, and one of the problems we have is the last minute arrival which shows up with a program. We do not really have time to thoroughly get into it, and if we had seen the year before that they were going in that direction so that when it gets there we know what they planned and how they got to that program, I think it could be much more effective and would give us a better ability to evaluate whether or not they are going in an established program that is going to try to get somewhere.

Senator HRUSKA. Well, thank you very much for your participation and your contribution.

The subcommittee will stand in recess until tomorrow morning at 10 o'clock in this same committee room.

We are adjourned.

[Whereupon, at 12:40 p.m., the subcommittee adjourned to reconvene at 10 a.m., on Thursday, October 9, 1975.]

AMENDMENTS TO TITLE I (LEAA) OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

THURSDAY, OCTOBER 9, 1975

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 2228, Dirksen Senate Office Building, Senator John McClellan (chairman of the subcommittee) presiding.

Present: Senators McClellan (presiding), Kennedy, and Hruska.

Also present: Paul C. Summitt, chief counsel; Dennis C. Thelen, deputy chief counsel; and Mabel A. Downey, clerk to the subcommittee.

Senator McCLELLAN. The Chair will announce that we have a roll-call vote on in the Senate. We will have to go over and vote. I am sorry.

Representative PEPPER. That is all right; we understand.

Senator McCLELLAN. Just be patient, and we will get back.

[A brief recess was taken.]

Senator McCLELLAN. The committee will come to order.

Senator Kennedy will be recognized for a brief statement.

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

I want to again thank the Chair for conducting these hearings, and particularly in inviting mayors to testify today, as well as distinguished Congressman Claude Pepper. I find that the greatest concern over crime can be found in the cities of our Nation. The statistics are quite clear and quite compelling; the cities suffer from an extraordinary rise in crime; various surveys show that generally those who suffer the most and are most concerned are the elderly, the poor, and the black.

In 1973, I offered an LEAA amendment to provide some additional assistance to the cities and to the areas where street crime was a major concern of the population.

We were unable to get support for that particular measure on the floor of the U.S. Senate and had to settle for a compromise amendment which has not proven to be satisfactory. Today we are going to hear from three distinguished mayors and Congressman Pepper who will talk about the effectiveness of the impact cities program, the juvenile justice program, and whether they have really reached the cities and young people of this country.

It is vitally important to listen to their comments on these particular problems, because I do not feel that LEAA has been successful in funneling and channeling resources into those crime areas where there is the greatest need.

Mr. Chairman, I would just like to indulge the committee for another moment to mention some of the recent criminal statistics that I think are enormously alarming.

For example, in Detroit, if the present murder rate holds constant at today's level, then a child born last year in Detroit and living there all his life has a 1 in 35 chance of being murdered. Indeed, if the murder rate continues to increase in Detroit at the present rate, the chances of his being murdered are 1 in 14.

In surveys in my own city of Boston, homeowners see crime and violence as the biggest problem. And, as I mentioned, such fear is highest among the elderly, the poor, and the blacks. They are victimized the most.

Also, concerning the issue of sentencing in the major cities of this country: In my own city of Boston, during the period from 1968 to 1970, prison sentences in heroin cases fell from almost one-half to about one-tenth, at the same time the estimated number of heroin users rose from 1,000 to 6,000. Such a sentencing pattern can be explained neither by a deterrence nor a rehabilitation philosophy. And this is not different, from what is happening in the other major cities of this country.

In Los Angeles, only 6 percent of those charged with burglary—who had a serious prior record—were sent to prison, and only 12 percent of those charged with burglary—who had already been in prison—were sent back!

And in New York City, in 1973, 31,000 felony arrests had to be handled by only 125 prosecutors, 119 public defenders and 59 criminal court judges. The result was, therefore, predictable. Of those arrested, only 4,000 pleaded to, or were convicted of, a felony charge, in spite of the fact that 31,000 were actually arrested.

And finally, violent crime is primarily a phenomenon of the large cities. In the 1970's, almost three-fifths of the violent crimes, and almost two-fifths of the burglaries, took place in cities of more than 250,000 in population.

So I want to thank the Chair for focusing these hearings on this whole problem of crime, which is of enormous interest and concern. We must evaluate whether those provisions of the redrafted LEAA bill, which does provide for additional attention to the problems of crime in the cities, are really good enough to make a meaningful dent in this crime problem. And I want to join the chairman in welcoming a good friend; one of the most gifted and talented legislators that we have, Congressman Pepper.

Senator McCLELLAN. Thank you, Senator Kennedy.

The Chair would observe that these crime statistics are alarming; they are almost frightening, and unless we are able to get the crime incidents under greater control it is frightening to contemplate what we are going to come to in this country.

This Agency—it is not a law enforcement agency in the strictest sense—that is, the Agency does not have the power to arrest, to pros-

ecute, or to adjudicate. It was created to find ways to assist local law enforcement agencies in their efforts to execute the law.

We have had experience with it now of some 7 years. The purpose of these hearings is to review LEAA, and determine whether it has demonstrated a worth that will justify or warrant its continuation and if so, to ascertain where it may be strengthened.

We are glad to have as our first witness this morning, our former distinguished colleague, Congressman Claude Pepper of Florida, who has manifested through the years a keen interest in the law enforcement field. He has been a very valuable Member of Congress, both in the Senate and in the House, in consideration of legislation directed in the crime-fighting area.

So, Congressman Pepper, the committee is happy to welcome you back this morning. We will be most interested in your comments.

You may proceed.

STATEMENT OF HON. CLAUDE PEPPER, A REPRESENTATIVE IN CONGRESS FROM THE 14TH CONGRESSIONAL DISTRICT OF THE STATE OF FLORIDA

Representative PEPPER. Thank you very much. Mr. Chairman and distinguished members of the subcommittee, I am very grateful to you, as old friends, for your kind welcome here this morning. It is a great privilege for me to be here.

I would like—just as the distinguished Senator from Massachusetts—to commend the chairman and the members of his committee for undertaking an inquiry into this continuing challenging problem of crime and what we can do about it.

The problem, of course, is a very difficult one, a very complex one. I was chairman for 4 years of the Select Committee on Crime of the House, and we tried to make an intelligent inquiry into this difficult subject.

There is no one thing that I know of that anybody has proposed that could be done that would immediately solve the problem of crime. We know that a great many things have to be done.

Our correctional system, I think, is one area that cries out for reformation and for a new approach. The correctional system is perhaps one of the best illustrations of where much can be done with a new approach.

In the hearings of my subcommittee, Dr. Miller of Massachusetts—who I know the Senator from Massachusetts is familiar with—was asked, "What do you do when they come into the juvenile justice system?" In other words, when they became incarcerated.

Dr. Miller, who was then the head of a correctional system in Massachusetts, closed down every one of those big old detention institutions, warehouses of offenders, in Massachusetts, and put into effect local institutions where the young boy or girl could be kept close to home and could have an opportunity to get personal attention. In some instances, they were sent to college.

He gave us an interesting figure. He said it costs, ordinarily, about \$20,000 a year, in most States, to incarcerate a youthful offender, a juvenile delinquent who has been guilty of crime, and so adjudged.

But Dr. Miller found a far more effective way to deal with these young people, and he also found a more inexpensive way.

This is what Dr. Miller concluded—and I am quoting now from the testimony of Dr. Miller before our committee.

For what it costs to keep a youngster in a training school, you can send him to the Phillips Exeter Academy, have him in individual analytical psychotherapy, give him a weekly allowance of between \$25 and \$50, plus a full clothing allowance. You could send him to Europe in the summer, and when you bring him back, still have a fair amount of money left over.

Now that sounds like a shocking statement, but it was made by a very responsible man who has been working very creditably in this field of what to do with juveniles who are apprehended.

We do know that if we were to tear down detention institutions in the national interest, the best thing that would happen would be that the big old institutions like we have in Raiford, Fla., Attica, N.Y., and in other parts of the country should burn down, and be rebuilt as small institutions holding about 300 or 400 inmates where better care and better attention could be given to those who are there.

LEAA has been concerned with helping the police to have better equipment, to be better trained, improve operating facilities, modernizing the courts, and advance court procedures. In my committee hearings we had many judges, Federal and State, who gave some very illuminating testimony about what the courts could do to improve their facilities. But I came here today, Mr. Chairman and members of the committee, to emphasize the prevention element.

I believe that the better opinion in this country, which is concerned with crime, has come to the point of believing that we should put more emphasis on prevention, and that we will get better results from the emphasis that we put there than efforts that we make in other directions.

So that is the purpose of my statement. So, Mr. Chairman, I am here today to reserve an opinion and ask you not to include in this bill the provision to eliminate section 261(b) of the Juvenile Justice and Delinquency Prevention Act of 1974.

Again, much of what I have to say will be drawn from my experience as the former chairman of the House Select Committee on Crime, and my continuing interest in the necessity to abate crime and curb delinquency among our Nation's youth.

Mr. Chairman, there is a consensus today among criminologists, criminal justice administrators, psychologists, sociologists, lawyers, judges, Members of Congress, and community leaders that crime has not abated, but rather—as the distinguished Senator from Massachusetts has said—it continues to increase.

I believe all would agree that there is no magical plan that we can put into effect which will reduce the number of criminals or the number of crimes immediately. We do not know of any implemented criminal justice system anywhere that offers that promise, nor do we really know what techniques must be devised or what procedures must be designed if we are to transform a criminal behavior pattern into a law abiding one.

In sum, there is much that remains to be discovered about both the causes and the correction of crime. Like a cancer, its source is

not always readily known, but nevertheless, the symptoms of its existence are highly visible and obviously destructive.

Let me now address myself to something which is known about crime. We do know that juveniles under the age of 18 presently account for 45 percent, or almost one-half, of all serious crime committed in the United States today. Of all serious crimes in the United States, 75 percent, or three-fourths, are committed by youths under the age of 25, and 23 percent of all violent crimes are committed by youth under the age of 18.

LEAA Administrator, Richard Velde, has said that a major contributing factor to the rise in crime was increased juvenile crime, and that juveniles are the age group most likely to repeat offenses. It is a fact that recidivism is running upwards of 60 percent for juvenile offenders.

Furthermore, 10 years ago President Johnson's Commission on Law Enforcement and the Administration of Justice concluded that, "America's best hope for reducing crime is to reduce juvenile delinquency and youth crime". It was true then, but it is painfully true now.

According to John Craecen, Acting Director of the new National Institute for Juvenile Justice and Delinquency Prevention, the rate of juvenile crime will continue to be high at least for the next 15 years.

There is little question that crime is increasing in the United States, and the contribution to crime by the youth of America is equally unquestionable. Accordingly, LEAA has positioned juvenile justice and delinquency prevention as one of its four top national priorities.

With the passage of the Juvenile Justice and Delinquency Prevention Act of 1974, Congress in its findings stated in section 101(b) that:

The high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss of human life, personal security, and wasted human resources and that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal government to reduce and prevent delinquency.

I strongly concur with these findings. Quite obviously youth crime poses an ever-increasing threat to the national welfare, and we must visualize juvenile crime prevention as a national priority.

There are two bills before your distinguished committee, S. 2212 and H.R. 9236, which provide for the deletion of section 261(b) of the Juvenile Justice and Delinquency Prevention Act of 1974. Section 261(b) requires LEAA to maintain funding for juvenile delinquency programs at least at the level of fiscal 1972 programs, estimated by LEAA to be \$112 million. This represents approximately one-eighth of the total budget.

Granted this figure represents a significant portion of LEAA's funding effort. However, it is not nearly as significant as it should be when one considers the crime statistics and our system's current inability to effectuate a reduction in juvenile crime, which obviously leads to adult crime.

I remember, Mr. Chairman and members of the subcommittee, that a juvenile judge told our committee that you could count upon it that about half of the young people who become incarcerated for juvenile crime will eventually wind up in the major penal institutions of this country as adults.

It is clear that the removal of this requirement, section 261(b), coupled with the administration's previously exhibited reluctance to seek any funding for the Juvenile Justice Act, would effectively eliminate Federal responsibility to arrest the rising tide of juvenile delinquency and crime. It is reasonable to assume, if section 261(b) is deleted, that funds will not be used by LEAA to extend and expand ongoing juvenile delinquency prevention programs. Undoubtedly, it will result in a cutback in funds for these programs which should be our first resort in dealing with the problem of crime. Given institutional pressures, these moneys would likely be shifted to courts and correctional institutions—places of last resort.

In Mr. Velde's opinion, section 261(b), referred to as the-maintenance-of-effort provision, is contrary to the bloc grant approach to funding. It is his conviction that the individual States and elements within the planning structure of the States are in a better position to determine funding priorities for bloc grant funds.

He states that section 261(b) dictates the amount of funds to be expended for one particular aspect of law enforcement and criminal justice and thus limits the State's flexibility in planning for effective crime prevention.

Granted, there is merit to Mr. Velde's argument. Indeed, it was the intent of Congress that State planning agencies representative of the State's localities be the ultimate planner and allocator of its funding and priority needs. However, it was also the intent of Congress that the maintenance of effort and support of juvenile crime prevention be recognized by all States as a national priority.

Consider the following hypothetical situation. Assume a State exists in which juvenile crime is not considered a major problem. In that same State, assume the courts are in dire need of reorganization and additional staffing. This State, according to Mr. Velde, would argue that in order to comply by section 261(b)'s mandate, they must fund the low priority juvenile delinquency program and thus, neglect to fund adequately the higher priority needs of the courts.

In responding to this argument, the following should be recognized.

First: In States where the juvenile crime problem is visualized as minimal, assuming that such an optimal situation presently exists, this does not sanction the State's failure to comply with a national priority aimed at a highly mobile element of the Nation's population. Let us not confuse State priorities with national priorities.

One particular State's funding priority may be in the area of court improvement. Another State may view additional correctional facilities as the recipient of their funding concerns. These are individual State priorities which are best decided and dealt with at the State planning level. With this, I have no argument.

However, hard statistics tell us that juvenile delinquency and the crime it generates is a national priority. Its arrest and its prevention

must be dealt with by all States, thus erasing the threat it now presents to the whole effort on crime prevention and our national welfare.

It is the intent of Congress—and should remain the intent of Congress—that each and every State recognize its role in the prevention and/or arrest of juvenile crime. Therefore, let me restate the intent of Congress in the Juvenile Justice and Delinquency Prevention Act of 1974.

Section 261(b) states:

In addition to the funds appropriated under this Section, the Administration shall maintain from other Law Enforcement Assistance Administration appropriations other than the appropriations for administration, at least the same level of financial assistance for juvenile delinquency programs assisted by the Law Enforcement Assistance Administration during fiscal year 1972.

In other words, LEAA was mandated to maintain the 1971 level of funding of approximately \$112 million in 1972, 1973, and 1974. In 1975 and 1976 the same level will be maintained unless this section is changed.

Second: It is highly unlikely that States, on their own initiative, will place the necessary emphasis on juvenile crime and its prevention if section 261(b) is deleted.

To illustrate my point, let us examine a State budget, in an effort to determine where their priorities lie. For example, one particular State reported an expenditure of \$1.4 billion in the category of social services for fiscal year 1974. Approximately \$32 million of this total figure was expended in the area of juvenile and child care services. Now that is \$32 million out of \$1 billion, almost \$1.5 billion.

The budgetary forecast for fiscal year 1975 looks somewhat similar: \$1.6 billion for social services with \$52 million funneling down to juvenile and child care services. Therefore, this State's budget—and in case it is a matter of concern, that State was Michigan—therefore, this State's budget for fiscal year 1975 plans to direct less than 4 percent of its total social services budget toward a distinct national priority.

If a State budget is any indicator of where its priorities are, then, it is clear from these statistics, that they are not in the area of juvenile crime and its prevention. Programs which hard statistics tell us are most vitally in need of support; programs geared to prevent juvenile crime and the adult crime it generates; programs of the most urgent national concern are being neglected.

Third: It is interesting to view the trend of State budgetary support to juvenile delinquency programs historically. Before the 1950's, many States—for example, Wisconsin—initiated their own programs for juvenile and child care services. However, shortly after the 1950's, the State support to such services tapered off and the emphasis within the States shifted to new and improved equipment for courts, police, police departments, and correctional institutions. With this in mind, I might point out that according to a recent statement by the President, "statistics prove that crime has more than doubled since the 1960's". Perhaps this might suggest that the States' emphasis has shifted in the wrong direction. Regardless;

today the expansion and maintenance of juvenile and child care programs are viewed as a Federal responsibility.

Last: There are a number of studies which suggest that many children can mature out of delinquent behavior. If this is true, then we are all the more justified in preserving the "maintenance of effort" provision which section 261(b) of the Juvenile Justice and Delinquency Prevention Act provides, and which S. 2212 and H.R. 9236 would effectively eliminate.

All States must recognize their national responsibility to expand and develop effective programs of delinquency prevention, capable of reaching youth at that crucial time before their criminal career develops.

In conclusion Mr. Chairman, members of this distinguished subcommittee, I believe that we cannot afford to cast aside the restriction which the 93d Congress wisely included in the Juvenile Justice and Delinquency Prevention Act of 1974 to direct substantial LEAA funds into juvenile delinquency prevention programs. Perhaps, at some future time, when adequate funding is assured under the Juvenile Justice and Delinquency Prevention Act itself, we can remove the LEAA provision. But the administration's reluctance to recommend appropriations for the National Institute for Juvenile Justice and Delinquency Prevention clearly indicates that now is not the time to make this change. I urge that you recommend against the passage of this provision.

Thank you.

Mr. Chairman, may I say in conclusion, to get the matter in perspective LEAA under section 261(b) is currently required to maintain the level of 1972 funding at approximately \$112 million; about 85 percent of that—and I was confirmed in that opinion by representative of LEAA who is in the room this morning—about 85 percent of that is going to the States on a matching basis, 90 percent by the Federal Government, 10 percent by the States. The States are accepting this money and using it in this area.

Now then, what other funds are available if we allow LEAA to choose to spend a lesser amount than \$112 million, or one-eighth of their total budget on this critical national priority purpose? What other funds are available to take up the slack that would occur? The Juvenile Justice and Delinquency Prevention Act in the 1976 budget, I am told now, has \$40 million. That is in the conference report—\$40 million. If we maintained the LEAA level of \$112 million and added the \$40 million, we arrive at a figure which does not represent a total allocation directed at developing and expanding delinquency prevention programs. It includes administration costs and that sort of thing. It all does not go toward helping the delinquent situation. We only have \$152 million for approximately 215 million people, and roughly 20 million school children, or something like that, in the schools of this country.

The other area that we have neglected so far in my opinion very critically is to stop school drop-outs. The Miami Chief of Police told me not long ago that about 90 percent of the juvenile trouble that they had, the incidence where juveniles violated the law and were incarcerated, were school dropouts—9 out of every 10. Yet many

of them have tried for several years to get more money in the educational bills to try to prevent school dropouts as a means of curbing crime.

If I remember correctly, I believe the House authorized \$4 million in the last education bill. I do not recall what the final figure was. But I do not think more than \$3 million or \$4 million was authorized for the various education programs to try to deal with the problem of preventing school dropouts.

Now, just let me say this one last thing. I do not think that in keeping 261(b) in the law in your excellent bill which you are considering, you are going to make a State take it. What 261(b) does is to require LEAA to have the funds available. If you should find a State that is not aware of the importance of trying to curb youth crime and save young men and women from criminal careers and the public from being victimized, there are plenty of other States that would like to have that money. So, all I am saying is, Mr. Chairman and members of the subcommittee, I beseech you, do not strike out section 261(b) of the 1974 Act. Maintain at least the level of \$112 million in available funding to the States at the Federal level on a 90-10 matching basis to try to do something in the area of prevention. And I can tell you from a good bit of experience, I believe the best money we can spend is in the area of prevention.

Thank you, Mr. Chairman.

Senator McCLELLAN. Thank you, Mr. Congressman. I take it you are not one of those who believe that this agency should be abolished.

Representative PEPPER. No; indeed, I certainly do not. It has done a great deal. Of course, it cannot solve immediately the problems of crime in the country. But it has helped, and it should be strengthened and aided further and not be diminished in any way.

Senator McCLELLAN. You feel it has, in its first years of operation, demonstrated a service that is needed and it has accomplished some good? You do oppose very much the striking of the provision dealing with juvenile delinquency?

Representative PEPPER. Mr. Chairman, I think the emphasis of LEAA's work, if it should be criticized at all, has been because in a perfectly natural response to the call of the courts and the police departments and all of that, they have put a great deal of their money, in fact, they have put most of their money, into things that dealt with law enforcement, the police, the courts and the correctional institutions. Those things, of course, are necessary. But, at the same time, I think more and more we are becoming aware that we should shift the emphasis now, at least as much as we can, to the preventive aspects of crime. I think LEAA is beginning to move more and more in that direction, and I would not like to see anything they have done in the past diminished.

Senator McCLELLAN. You do not oppose, in principle, the bloc grant provisions of the bill?

Representative PEPPER. No; I do not. Mr. Chairman, I consider 261(b) as simply a requirement for the Federal Government to maintain and make available funds for the States. You cannot make the States take them. But, I want to be sure that the States that are farsighted and do recognize the importance of this problem will be

able to come to the Federal Government and get substantial assistance. Let me just add this. Mr. Chairman and members of the subcommittee, a little while ago I sent a letter to the Comptroller General, asking him how much of the revenue sharing funds that we made available to the counties and the States and the local area went toward the care of the elderly. You know the figures I got back? Two-tenths of 1 percent.

Now, I do not want to interfere. I want to give the States, local communities, all of the latitude, but I do think Congress could certainly lay down guidelines which say, we are not satisfied with the amount of funding you are devoting to critical public needs. In the same manner, I think we laid down a priority in 1974 when we stated that juvenile delinquency must be kept at a high level of capacity by the LEAA. In sum, all we are saying is all 261(b) does is fix the Federal responsibility. It mandates LEAA not to divert those funds from other than use purposes.

Senator McCLELLAN. Would increasing the amount of the discretionary funds help to reach the problem that you are discussing?

Representative PEPPER. Undoubtedly, Mr. Chairman, it could. But, I am reluctant to see Congress not express a national policy with respect to so critical an aspect of a national challenge like crime.

Senator McCLELLAN. How would we change the bill? How could the bill be changed so as to compel or require States to give more emphasis to the juvenile delinquency problem?

Representative PEPPER. Leave 261(b) in the present law. That would require the level of spending to be maintained as of 1972. That would be one way that a high level could be maintained.

Senator McCLELLAN. The first thing is not to delete that section from the law?

Representative PEPPER. Yes; all you do is remove that line on the last page of S. 2212, page 7, No. 2, which states, "section 261 is amended by deleting subsection (b)." That eliminates that requirement of maintaining the level of spending for the purpose that was established in 1972. I think what they did in 1972 was wise. I do not believe, even though Mr. Velde would like to have more latitude, we should retreat from that declaration of national policy that the Congress declared.

Senator McCLELLAN. Senator Kennedy, in his statement awhile ago, made reference to some statistics—I do not recall them exactly—but dealing with the problem of sentencing and recidivism. Have you got any comments about that, how we might deal with that problem in this bill?

Representative PEPPER. Well, I think this bill is a good bill in dealing with that subject. I do think, as I said awhile ago, as my committee on crime found out, that these big old institutions do not do very much correcting.

When I was with my committee up at Attica, for example, in the week in which the tragedy occurred there, I remember talking to a 19-year-old boy incarcerated in a cell, incarcerated there with some of the worst criminals in the country. I cannot believe they were rehabilitating the young man. We stopped and saw Governor Rockefeller on the way down to Attica, and he invited to the conference

a State senator who was chairman of the crime committee of the State Senate. Governor Rockefeller immediately said: "gentlemen, you do not need to tell me that the correctional system of New York needs to be changed and be modernized. But," he continued, "Mr. Senator, how much will it cost—\$200 million or something?" And he agreed it would cost about \$150 million to \$200 million to accomplish that feat. The Governor said "Where is the money coming from?"

That is the reason I introduced a bill in the House providing for the Federal Government to cover half the cost of building modern correctional institutions in which no more than 300 or 400 inmates would be confined. The correction institution would be located in the urban areas from whence the incarcerated came. They could see their families and their friends and they could get a job when qualified by the authorities for release. Now, this does not go that far. But LEAA is making a little dent in the situation. They are giving some help to the States, to our State. However, we are not doing enough, Mr. Chairman, and members of the subcommittee, to move beyond the Atticas and the Raifords and all these big, old institutions where law offenders are just warehoused.

The warden at Attica told us, gentlemen, "Do not think I am ignorant about how to conduct an institution. Inmates spend 62 percent of their time in the cells. I do not have an athletic program or a recreational program. I do not have an educational program. We do not have the money." He said, "Give me the tools and I will try to run a modern institution." It is a big subject. It costs a lot of money, and we may never solve it altogether for those who are incarcerated. But, if we put more emphasis on the youth, I am told, Mr. Chairman, that the people who are knowledgeable in child psychology and in education can tell in the early grades when children manifest an antisocial tendency. It might well be that wise guidance from then on would keep a youth who develops tendencies toward antisocial conduct from becoming a criminal. That is where I think we ought to put more and more emphasis. Do all of these other things, yes, but put more and more emphasis at the preventive level.

Senator McCLELLAN. Thank you very much, Congressman Pepper. I am glad now to yield to my colleagues. Do either one of you wish to ask any questions?

Senator HRUSKA. I have no questions.

Senator KENNEDY. I want to thank you for your comments, Congressman Pepper. I must say that I am in strong agreement with the positions you have expressed here, strong agreement. Even if we follow the recommendations that you have mentioned here, we would still be spending woefully little in the area of juvenile crime.

Representative PEPPER. Sure.

Senator KENNEDY. If we follow your recommendation, which is only the bare minimum that should be spent, it is still an extremely small amount, and I could not agree with you more that we must focus on the young people who are dropouts.

There have been some interesting studies done concerning the push out programs that have taken place in a number of different parts

of the country. A rather frightening development is taking place, when the correlation between the young people who are actually being pushed out of schools and their association with crime continues to be so very real, but I think what you have mentioned here is something that I am very much concerned about. I do think we need to help provide resources to do something about crime and violence. My real concern, and I gather it is yours in terms of listening to your statement, is whether we are really putting the resources, the American taxpayers' funds, in the most effective place to do something about crime, and I think you have targeted one of the prime areas. I am glad you have appeared here to speak of juvenile crime.

You also mentioned the reform of the courts and the response of Governor Rockefeller. We had an exchange here with Mr. Levi just 2 weeks ago. I asked him how the resources of LEAA could be used most effectively, and he mentioned the need for reform of the court structure, this whole problem of more efficient and effective courts. Yet, we find out that LEAA is only spending 16 percent of its budget on the courts, and a relatively small percent on juvenile delinquency problems. I think it is an entirely appropriate function of the Congress to ask hard questions whether this is the most effective way of allocating taxpayers' resources to do something about crime. I think you have made a very eloquent statement this morning in reminding us of the importance of prevention and identifying the areas where you feel that, based upon your experience and the very comprehensive congressional hearings you have held, funds could be more effectively expended. I want you to know I am very much appreciative of your comments, and I am going to do everything I can to see that your recommendations are included in any legislation.

Representative PEPPER. Well, I thank you very much, Senator. It is obvious that it is desirable for the Federal Government to encourage the States. Maybe some States do not see this problem with the clarity with which we see it, at the national level, and by encouraging them, we may increase their own effort. They are more likely to buy a new automobile or a radio for their police than they are to initiate these programs.

Senator, I could not agree more strongly with what you have said.

Senator McCLELLAN. Senator Hruska.

Senator HRUSKA. Congressman Pepper, I want to join my colleagues in welcoming you here. Your wide experience in this field is well known, and I know particularly about it because one of the Congressmen from my State was on your committee, the Select Committee on Crime, and I received regular reports about your activities all over the country.

Representative PEPPER. He did a good job.

Senator HRUSKA. We thank you for being here.

Representative PEPPER. Thank you very much, Senator, Mr. Chairman, we appreciate it.

Senator McCLELLAN. Thank you very much, Congressman. We next have scheduled three very distinguished mayors, Hon. Wes Wise, mayor of Dallas, Hon. Maynard Jackson, mayor of Atlanta, and Hon. Harvey Sloane, mayor of Louisville.

Gentlemen, would you come around, please. I understand that you wish to appear as a panel. Gentlemen, thank you very much for your appearance here today. The committee and the Senate appreciate your response to our invitation and to our efforts to review LEAA, its activities, and to make proper determinations as to future support of it and revision, if advisable, of any of the provisions of law giving it powers and authorizations to function.

I do not know whether you have arranged any particular way in your appearance, but I shall just call on each of you in the order that we have you listed here.

The first will be Mayor Wise of Dallas.

STATEMENTS OF HON. WES WISE, MAYOR, DALLAS, TEX.; HON. MAYNARD JACKSON, MAYOR, ATLANTA, GA.; AND HON. HARVEY SLOANE, MAYOR, LOUISVILLE, KY.

Mr. WISE. Mr. Chairman, members of the subcommittee, I am Wes Wise, Mayor of Dallas, Tex., testifying on behalf of the National League of Cities and the U.S. Conference of Mayors. You will also be hearing from two of my distinguished colleagues, the Honorable Maynard Jackson of Atlanta and the Honorable Harvey Sloane of Louisville, Ky., in a moment.

I come before you today as the chief executive of one of our great urban centers and a member of the board of directors of the National League of Cities and as the board's representative to the League's Public Safety Committee. I would like to express my sincere and heartfelt thanks to you and all members of the committee, Mr. Chairman, for this opportunity to appear on what we believe to be one of the most urgent problems of our urban centers today. We very much appreciate your interest in these areas.

I would like to spend just a few moments, if I may, describing the experiences of locally elected officials with the Law Enforcement Assistance Administration and offer, if I might, several suggestions to improve the impact which LEAA funds could have in our Nation's cities.

The utility of a Federal criminal justice and crime control assistance effort should be the focus of our concern, we believe. Improvement of our system of justice and the reduction of crime are worthwhile goals which will require local, State, and Federal cooperative efforts. I do think the tasks and goals established for LEAA must be reexamined. Primarily, I do not believe that LEAA should be held accountable for the increasing crime rate.

The problem of crime in our cities is complex and needs to be attacked through a number of methods. There is little doubt that unemployment and crime are closely correlated. There is little doubt that the deteriorating urban environments in some sections of our cities breed a contempt for the law. And in our opinion, it is indisputable fact that local law enforcement agencies bear the major share of responsibility for providing services to citizens and for controlling crime. It is the cities and counties of this country which have the political responsibility for public safety.

Mayors are called daily by citizens over crime matters; mayors must face the public during elections which more often than not have crime rates as a major issue, and very often the major issue. There is no such concern or responsibility placed on state officials.

Yet, LEAA has never been a program where the priorities and plans of cities are controlled by the cities; rather, total control over the program's bloc grants are placed in the hands of the States.

I would suggest to you gentlemen, that it is local concern about crime, local control over crime fighting resources, and local leadership which will have the greatest impact upon improving our system of justice, and controlling crime in our Nation.

In the past few years, Congress has passed the Community Development Act and the Comprehensive Employment and Training Act. Both of these measures recognize that unique local factors and priorities are essential to developing effective programs. Both of these laws have placed substantial control for the design and implementation of programs with local government.

At the same time, the law enforcement assistance effort has been placed in the hands of the State government. While States do have a number of criminal justice functions, such as courts and corrections, it is local law enforcement agencies which have the every day responsibility for controlling crime.

The Public Safety Steering Committee of the National League of Cities, which meets in my city of Dallas tomorrow, is recommending that the delivery mechanism by which LEAA funds are made available to local units of government must be changed. Since 1970, cities and single city-county combinations over 250,000 population have developed local criminal justice planning units responsive to local elected officials with the ability to analyze crime patterns and trends, identify criminal justice problems, and develop and implement plans to control crime and improve the overall criminal justice system. Currently these cities and counties have planning and implementation capabilities which equal or surpass those of State Law Enforcement Planning Agencies. There is no longer any need, if there ever was, for these cities and counties to operate wholly through the SPA structure.

Continued domination of the SPAs over sound local planning and program development only will serve to frustrate and exacerbate State-local relationships at the expense of further crime control and criminal justice system improvement. To most effectively carry out their planning and coordinating functions, local criminal justice planning units must have sole authority for determining local priorities and programs and for evaluation of their LEAA-funded projects. City prime sponsorship is a proven viable planning and administrative model that can and should be applied to LEAA.

In our opinion, the most effective national role that the LEAA can perform is to concentrate more directly on improving the efficiency, fairness, quality, and humaneness of criminal justice agencies and to exert strong leadership on important criminal justice policy issues. In addition, LEAA should play a significant role in encouraging criminal justice officials and theoreticians to question and test traditional assumptions about the nature of criminal behavior and about existent control strategies.

This is not to suggest that LEAA and the administration of its funds have no relationship to crime control. Rather, I believe, as the Safe Streets Act states, that "crime is a local problem" and that LEAA must design and implement a structure in which State and local governments can work together to control this problem. Specific strategies to control crime must be developed at the State and local levels with the assistance of LEAA technology development programs, information sharing, and, of course, funds.

The city of Dallas has been directly involved in a nationwide LEAA crime reduction program during the past 3 years and the results of that multimillion dollar effort are encouraging. The high impact anticrime program involved direct grants of \$20 million to eight cities of this Nation for the purpose of reducing target crimes—rape, robbery, and burglary—by 20 percent in 5 years. While the quantified goals of the program have not been achieved, there have been important planning and programmatic developments that resulted from the impact program.

Crime incidence is an unrealistic and misleading vehicle to measure change in program effectiveness, Mr. Chairman, until our reporting systems are more uniform, and more sophisticated. And until long-term studies of actual victimization can be made we will not have a clear picture of crime in America. We must also face the fact that when LEAA funds are used to improve the efficiency and responsiveness of criminal justice agencies, citizens will report more crimes.

Let me point out to the members of the committee that Dallas had a 5,000-incidents-of-crime increase between 1973 and 1974. But, this was almost all in the burglary area. People were reporting more burglaries. Thus, we were actually improving in this crime category, while outward appearance statistically would make it appear that we are not improving.

The establishment of a crime analysis capability which has led to programs based on precise information about the offender, victim, and the setting of specific types of crimes is important. This capability has saved thousands of dollars in police patrol expenditures and resulted in increased apprehension rates of suspects. The high impact crime program has also allowed cities to experiment with crime control strategies that had not been tested elsewhere in the bloc grant program because of restrictive program categories and insufficient funds. Local crime problems were analyzed, priorities were established, and impact funds were used to implement locally designed programs. If nothing else, the impact program established the capability of cities to develop and implement plans based on local priorities.

The impact program has also introduced a new concept to criminal justice planning that focuses on developing programs for specific crimes. This approach gave us a much greater flexibility in developing our crime control programs and encouraged cities to work closely with all municipal departments and with other Federal assistance programs. We were able to look at crime as a total community problem rather than defining it only in terms of police, courts, and corrections services.

In my city of Dallas we chose to focus most of our impact funds on a comprehensive community crime prevention program, and I

think it was the wisest decision we made in the entire program. I sincerely believe that the LEAA program must place greater emphasis on crime prevention if we are to control the problem in any rational way in our cities and our Nation. Our experience with the impact program has demonstrated not only the need for but the effectiveness of this approach. Citizens have begun to emerge from behind their locked doors, alarm systems and security forces to actually assist personally the police and their neighbors in preventing crimes and establishing youth programs and providing employment opportunities for ex-offenders.

And I might add here that the city of Dallas is now engaged in a full-scale community and public relations program to emphasize the advisability of reporting crime to our citizens.

The administration's proposal to incorporate a special high crime-areas program in the 1976 legislation is an acknowledgement of the need for greater local control over priorities and planning functions. However, the crucial issue with LEAA is the administration of the bloc grant program. This program is over eight times larger than that proposed for cities. It is important that local government be brought into a full partnership with State and Federal efforts. This can only be accomplished by providing for a prime sponsorship arrangement in the administration of these funds.

The amendment offered by the administration makes no mention of how these funds will be administered. We already have 1,311 pages of guidelines for a 23-page law. Certainly, if the Congress intended for State and local governments to have control over these bloc grant funds: to be able to develop priority programs; and to administer LEAA at the State and local level, then 57 pages of guidelines for each page of law will only frustrate, if not eliminate, our ability to accomplish these ends.

Finally, Mr. Chairman, let me reemphasize that any changes in LEAA must be designed in a manner which eliminates the present deficiencies. Local officials must have the authority to analyze their own unique crime and justice problems, and certainly these differ greatly from city to city. We must be able to develop effective plans and programs, to set local priorities, monitor and evaluate these local efforts, and move well beyond the restrictive State funding mechanism now in effect. These types of improvements are built into the renewal of LEAA, for these cities should be able to break significant new ground in crime control and criminal justice improvement strategies.

In closing, I would like to reiterate the National League of Cities and the U.S. Conference of Mayors support for the extension of the Law Enforcement Assistance Administration. The use of LEAA funds has contributed to an improvement of our overall criminal justice agencies and services. The high impact program allowed eight cities to develop a sophisticated decisionmaking capability and allowed us to implement numerous crime reduction programs that have proven to be very effective, although, of course, it is never enough.

Thank you very much, Mr. Chairman and members of the committee.

Senator McCLELLAN. Thank you, Mayor Wise.

As I understand your position, there is not the ability under present law, for our local communities, for municipalities, the mayor and others having direct responsibility for local law enforcement to have their influence and impact on the decisions felt with respect to how Federal money should be used or to what activity it should be directed; is that correct?

Mr. WISE. Yes, sir, we are willing to accept certain guidelines and we understand the advisability of certain guidelines, Mr. Chairman, but we feel the prerogatives should, in the way these funds are implemented, vary so widely, even from Atlanta to Louisville to Dallas; and even more so from the cities of our size to the smaller towns, that the prerogative must and should remain with the local entity.

Senator McCLELLAN. Well, under the law now, most of the funds are channeled through to projects approved by a State planning agency.

Mr. WISE. Yes, sir.

Senator McCLELLAN. Do you feel that municipalities generally are not able to make the input into that planning that you feel is necessary?

Mr. WISE. Yes, sir, that is correct.

Senator McCLELLAN. What have you done with respect to the Governor of your State, who is trying to work with that planning agency, to have your problem recognized and included in the State planning? Are you having problems with that?

Mr. WISE. No, sir, in Texas we have not had problems with our specific situation, with the Governor of our State, Governor Briscoe. What happens in some cases, you run into a political problem since the county government is an arm of the State government, of sometimes the municipalities not receiving exactly the attention and consideration we feel we should have. I want my colleagues to speak to their particular situation in this regard.

Generally speaking though, we feel the local center city, the actual confines of the borders of our city, are where the principal problems now lie.

Senator McCLELLAN. Now, that contrasts with your counties, is that correct? Is that what you say—the municipalities and the counties have conflicts?

Mr. WISE. Yes, sir, that often is the case.

Senator McCLELLAN. You have a problem at that level.

Mr. WISE. We have had good cooperation in the State of Texas in that regard. It is just that as you come down that line of command, it begins to water down more and more, I guess, into the local municipal level and does not give us the initiative that we feel we should and could have.

Senator McCLELLAN. Mayor, do you feel the present law should be changed with respect to recognizing the State governments and State planning board as a prime source of projects to be approved?

Mr. WISE. Yes, sir. We would hope there would be a very close examination of the structures as it now is, and how it affects the local municipality. Yes, sir, I do.

Senator McCLELLAN. How would you change the present law so as to reach the very problem you now say you are experiencing?

Mr. WISE. Mr. McClellan, I think it would be—since I have never worked at the Federal level—it would be a little presumptuous of me to attempt to say to my Congressmen and Senators how that could be done.

Senator McCLELLAN. No, no, not at all. We are seeking from you at the level of operation and daily experience with LEAA ways for the Congress to make this program most effective and to assure the best value for the funds expended.

Mr. WISE. Then I think the more direct the conduit can be from the Federal Government to the local municipality, the better and the more effective the LEAA program would be.

Senator McCLELLAN. Would increasing the amount and the ratio of discretionary funds, as compared to the total authorization or expenditures in this field, be helpful?

Mr. WISE. Yes, sir. I would believe so. Maybe Mayor Sloane could give his viewpoints on that.

Senator McCLELLAN. All right, I will recognize you.

Mr. SLOANE. Mr. Chairman, I am Harvey Sloane of Louisville, Ky.

One approach that we would like to have you consider is the bloc grant approach that is now being used by the housing and community development bloc grant, whereby local municipalities, governmental entities, are getting bloc grants of money after participating in an extensive planning process outlined by the Federal Government; participating also in extensive public hearings, and then going about implementing that program.

We view crime as you do, as a multifaceted problem; crime prevention certainly, law enforcement, judicial procedures, correctional procedures, methods for helping victims and we at the local level are making plans to deal with all of those problems. This is the 1976 planning grant from our Regional Criminal Justice Commission, made up of elected officials and citizens. This is submitted to the State at the present time. The State, under the Kennedy amendment to the 1973 act, can approve it or disapprove it in whole or in part.

In Kentucky we have seen that there has been disapproval in part, more than approval in whole. And the problem that we have is that we receive fragmented components of that plan to implement it. And we feel the attack on crime should be a comprehensive one that is designed under Federal guidelines by the local city and counties. We are working very well with our county. Our problems are much the same and we have a regional commission and we would like to offer, for your consideration, the approach of a bloc grant to local jurisdictions, whereby the States cannot totally turn around our plans or fragment them and make them basically ineffective in their implementation.

Senator McCLELLAN. As I understand you, you would have so much of the total authorization or appropriation remain as a bloc grant to the States, but you would also want a bloc grant set up for municipalities. Am I understanding you correctly?

Mr. SLOANE. Yes.

Senator McCLELLAN. Well, does not the discretionary fund now take care of that pretty well, or do you want a separate bloc grant designated for municipalities? How about counties?

Mr. SLOANE. I think I can only talk for Louisville and Jefferson County. We work well as an entity, and I could see no problem in having the bloc grant come down.

Senator McCLELLAN. While you may not have the problem, there may be one in other jurisdictions, and we have got to deal with it here overall. We cannot write a law just to deal with a local problem in Louisville where it is not a problem in some other State or locality.

I am not opposing what you are suggesting here about setting aside some bloc grants for a municipality, but I wondered if then the county officials would feel that some bloc grant percentage should be set aside for them? I do not know. I am asking you down at the level where it is operating to give us your suggestions.

Mr. WISE. Senator, that may be. But I do believe that all of the members of the committee would agree with us that the street crime, the stranger to stranger crime, the one of assault or rape or robbery occurs principally in the center cities, and that is where we feel that the principal problem lies.

Senator McCLELLAN. I am not unsympathetic at all to what your objective is. I am trying to rationalize here a bit on how to reach it by legislation—whether it be by separate bloc grant for a municipality. The cities now, when they are not able to get a project incorporated in the State plan or approved by the State planning commission, can appeal for discretionary funds, is that not correct?

Mr. WISE. By and large, yes, sir.

Mr. JACKSON. Mr. Chairman, I wonder if I might speak to your question.

Senator McCLELLAN. Yes, sir.

Mr. JACKSON. In my opinion, the Kennedy amendment of 1973, is one of the answers that can be pursued. It is one of the things that is on the books that has never been pursued adequately. We think that is the main answer.

Senator McCLELLAN. Very well.

What power that the act now confers upon Governors, upon the planning organization—I assume in most instances it is somewhat under the control of the Governor—would you take away from them, if any?

Mr. WISE. I do not know that I would take away any of their power. I think that perhaps in some areas the idea of coming through a State agency is wise. I think there would be some other areas, however, where again the conduit could be better modified to come directly to the cities.

Senator McCLELLAN. Very well. You just say more powers and more money should be concentrated directly to the municipalities because that is where most of the crime occurs, street crime and so forth.

Mr. WISE. Yes, sir.

Senator McCLELLAN. That is what we ought to target. We ought to make that the target of our efforts, to deal with that as directly as we can, with the local officials. That is your suggestion?

Mr. WISE. Yes, sir, even the areas of juvenile delinquency, to which the committee addressed itself a moment ago with Mr. Pepper, even in these areas I think the crime is principally in the center cities because of the influences there.

Senator McCLELLAN. Very well.

Now, gentlemen, you have statements, do you? I am sorry, maybe I should have waited until everyone had presented his statement. I was trying to get the thrust of the mayors' and the municipalities' positions with respect to this issue.

I will yield to either of my colleagues now for questions, and then we will proceed with the other two gentlemen.

Senator KENNEDY. I thank the Chair.

I want to thank you all for your appearance here and for your helpful comments.

I understand from your testimony that you believe that one of the important changes that could be made in the LEAA program is to make available categorical grants to the cities of the country, where law enforcement officials and recent studies have indicated that the greatest crimes and violence exist.

Is that correct?

Mr. JACKSON. Yes.

Senator KENNEDY. Maybe you could each answer on the record.

Mr. WISE. Yes, sir, that is correct.

Mr. SLOANE. Yes, Senator Kennedy, let me—when you say categorical, that bothers me a little bit, because I would like to think of it more as a bloc grant that allows the local community to plan for its needs in terms of preventive crime measures, in terms of correctional procedures, and to have a total package and not just focus in on hardware or focus in on one area of the whole criminal judicial problem.

Senator KENNEDY. Well, I could not agree with you more. I am glad you made that point, because it coincides with my views. I strongly feel that the record of the mayors in using the resources that have been made available to them, has been thoughtful, creative, and imaginative. I think, as you point out, Mayor Sloane, that when these resources have finally trickled down to the cities, the cities have spent wisely and have not been purchasers of the hardware that we have seen purchased in many State jurisdictions.

Whatever else you care to submit for the record might be helpful. If you could have your staff, perhaps, prepare typical examples of how your money has been spent, I think it would be very, very useful.

Mr. WISE. Senator Kennedy, in that regard, I would like to mention our own police storefront programs in our minority and underprivileged areas in Dallas, which have been very highly successful, and would be the kind of thing that we would like to see supported by LEAA funds, and which the State entity would not have as good a feel for and would not have knowledge of.

Senator KENNEDY. Mayor Jackson or Mayor Wise, can you give any reason why the Federal Government, which constantly makes

these bloc grants available to the cities in other countless Federal programs, should not do so under LEAA especially since everyone recognizes that crime is basically a local problem.

Mr. JACKSON. I wonder if I might speak to that, Senator?

Mr. Chairman, I am Maynard Jackson, mayor of Atlanta, Ga., and we very much appreciate the chance to be before you today.

The problem that we see in the U.S. Conference of Mayors and National League of Cities—and I chair for the U.S. Conference of Mayors a committee on criminal and social justice—

Senator McCLELLAN. Do you wish to proceed with your statement, Mayor?

Mr. JACKSON. I can, if you wish.

Senator McCLELLAN. All right. You may proceed with it.

Mr. JACKSON. All right, sir.

I am here representing the U.S. Conference of Mayors and the National League of Cities, as are Mayors Wise and Sloane.

Mr. Chairman, I am submitting for the record a copy of my statement. I think time is probably passing rather quickly, and I will spare you having—

Senator McCLELLAN. Your statement will be received and printed in full in the record. You may highlight it and make other comments as you like.

Mr. JACKSON. Thank you very much, Mr. Chairman.

[The prepared statement of Mayor Jackson follows:]

STATEMENT OF HON MAYNARD JACKSON, MAYOR OF ATLANTA, GA., ON BEHALF OF THE UNITED STATES CONFERENCE OF MAYORS AND THE NATIONAL LEAGUE OF CITIES ON S. 2212, CRIME CONTROL ACT OF 1975 AND RELATED BILLS

Mr. Chairman, and Members of the Subcommittee, I am Maynard Jackson, Mayor of the city of Atlanta, Georgia. I appreciate the opportunity to speak to you on the subject of federal assistance to states and localities for combating crime and improving the criminal justice system.

I appear before you today on behalf of the United States Conference of Mayors, where I serve as Chairman of the Criminal and Social Justice Committee, and The National League of Cities, where I served previously as Vice Chairman of the Public Safety Committee. Joining me today, are two of my colleagues, the distinguished Mayors of the cities of Dallas, Texas, Wes Wise and Louisville, Kentucky, Dr. Harvey Sloane.

I would like to compliment you and the Subcommittee members for your extraordinary efforts in sustaining and improving, over the years, this very important block grant program which has given life to the Law Enforcement Assistance Administration (LEAA), and has done much to strengthen the capability of local law enforcement officials.

Since the inception of the Safe Streets Act in 1968, local elected officials, that is, governors, mayors and county executives have been in agreement that a program of federal grants for strengthening local law enforcement capabilities is an important element in the much publicized "war against crime." Invariably, we have differed however, over the manner in which this assistance was to be channeled down to local authorities. For example, in 1968, former Mayors Beverly Briley of Nashville, Tennessee and Jerome Cavanaugh of Detroit, Michigan, argued against a state block program and urged the Congress to authorize direct grants to the nation's cities. As you recall, it was during that period, that local law enforcement was virtually paralyzed by the infamous "civil disorders" which were spreading like fire from city to city, sparing literally no region of the nation. In fairness, our concerns were based largely on a view held strongly by our police departments, that quick access to training funds and more sophisticated equipment could offset the seemingly disorganized "crime warriors threatening our cities."

In 1970, representatives of both of our organizations appeared before the Congress and argued in this instance, for a greater planning capacity regarding direct grants and in great detail, described how cities had been virtually ignored in the state and regional planning and funding process. We could no longer point to "civil disorders" and we began to witness planning and priority setting which had little, if any, relationship to the criminal acts taking place in our cities. More importantly, it became apparent, at least to us, that although aggregate crime data reflected a decrease in crime, the relationship between that reduction and the programs funded and operated under LEAA was a questionable one. Nevertheless, the Act was amended to allow major cities and counties to receive planning funds and required the states to provide what was termed as "adequate assistance to areas of high crime incidence and law enforcement activity."

It is my view, Mr. Chairman, that this 1970 decision to increase the emphasis on planning may have led us to the point where some disagreement exists today over whether LEAA can and should be held accountable for both systems improvement and crime reduction. Some contend that through better planning, we derive more improved systems which automatically results in a reduction in crime. As an attorney, I am well aware of the complex nature of our criminal justice system, and take exception to this general philosophy.

In 1973, after 5 years of frustration with a cumbersome funding process which continued to frustrate officials below the state level, we again asked the Congress to amend the LEAA legislation to enable local plans and priority setting. Our concerns were, that better use could be made of the LEAA funds, if localities, like states, were given some opportunity to submit annual area-wide plans. These plans would not only reflect local needs but could be produced without being inconsistent with the statewide plan. Incidentally, we recognize the necessity for a statewide plan and the appropriateness of a statewide plan. In 1973, following a lengthy floor colloquy in both Houses, agreement was reached on the so-called "Kennedy Amendment". In its original form, this amendment would have begun to address the problem of priority setting by municipalities which had been the basis of our frustration since 1968. By 1973, both the cities and counties had adopted similar positions on this issue as many of our suburban neighbors were witnessing increases in criminal activity. Specifically, the "Kennedy Amendment" as contained in Public Law 93-83 states:

"(4) provide for procedures under which plans may be submitted to the State planning agency for approval or disapproval, in whole or in part, annually from units of general local government or combinations thereof having a population of at least two hundred and fifty thousand persons to use funds received under this part to carry out a comprehensive plan consistent with the State comprehensive plan for the improvement of law enforcement and criminal justice in the jurisdiction covered by the plan;"

Unfortunately, as adopted, this amendment was not sufficiently strong to address the concerns of many of our cities. Tragically, I must report to you today, that it was not only ignored by many of the states but unenforced to a great degree by LEAA. I can only say that following seven years of frustration and difficulty with this program, our continued interest and support for what is being proposed as an extension here in S. 2212 and related bills, will be largely determined by the actions this year of this committee.

I would like to turn my attention now to cite some of the specific experiences with LEAA which have taken place in our cities in which the difficulties that I have alluded to can be highlighted.

Upon enactment of the LEAA program, Congress has declared that "crime is a local problem and is the total responsibility of state and local government." Just one week ago, testifying before this Subcommittee, the Administrator of LEAA, Richard Velde, reaffirmed this intent. He stated: "The basic assumption underlying the establishment of the LEAA program in 1968 was that law enforcement authority is primarily reserved to state and local governments and that crime control is essentially their responsibility. In 1975, this is still the basic philosophy behind the LEAA program." But in 1975, reality and philosophy have diverged. Through inadvertence, inexperience and design, total responsibility for LEAA programs continues to

reside in a disproportionate fashion at the state level. The situation has so deteriorated and the alleged "unique Federal, State and local partnership" has so failed from the cities' perspective, that my LEAA Regional Administrator could comment to me last week over lunch that:

"Cities should develop the capacity to anticipate the priorities of LEAA and SPAs."

Surely, the Congress did not intend that cities—the units of government most attuned to the unique characteristics of crime in their own jurisdictions—be merely the ministerial surrogate of LEAA and the State Planning Agency. NLC and USCA have consistently asked LEAA, the SPAs and this Congress for the authority to plan, fund, coordinate and implement crime control and criminal justice system improvement programs. The irony is that we are now forced again to request only that which was originally intended in the 1968 legislation, and which was denied us through administrative and regulatory fiat.

As stated, the 1970 planning funds amendment provided large cities and counties with the financial support to develop their own criminal justice system planning capabilities. Although the Kennedy Amendment intended that a block grant be made available to major cities and counties upon approval of local plans by the state law enforcement planning agency, with the exception of only a few states—notably Ohio, Virginia and Florida—the Kennedy Amendment has been a failure. In a recent survey of 49 cities, the National League of Cities and the U.S. Conference of Mayors asked the local agencies responsible for criminal justice planning whether the Kennedy Amendment has contributed to an improvement in local administration of LEAA funds. An overwhelming 71% of the respondents stated that the Amendment had effected "no change." One respondent succinctly states the problem:

"When the Kennedy Amendment was passed, we expected that the provision of the Amendment would facilitate the reduction of crime and the improvement of the quality of justice through the use of LEAA funds. The SPA, however, has managed to undermine the principle of the Amendment. We are now faced with a more complex planning system without the benefit of being able to decide where we should spend our funds. We must submit a comprehensive plan which conforms to priorities established at the State level without our input or funding priorities; then we must submit proposals on a project-by-project basis for SPA approval. We are thus hit twice. The Kennedy Amendment as it now stands placed additional planning burdens on the City, without enhancing its authority to implement the planning process."

Frankly, we are becoming weary of the need to plead year after year for the legitimate right to set our own priorities and implement our own programs in our own jurisdictions. We do not seek separatism or autonomy—we are merely requesting the right commensurate with our level of criminal justice responsibilities and our level of crime to plan, implement, and impact the LEAA program.

Over the last seven years, the National League of Cities and U.S. Conference of Mayors have attempted to shift the focus of the federal crime control program from the states to localities. We have forcefully expressed our views to both Congress and the Administration. Individually, as Mayors, we have tried to establish an atmosphere in which a true partnership with our states could be accomplished. None of these efforts have been successful.

There are good reasons, I believe, for granting cities and counties more responsibility in the LEAA program.

By tradition and by law, we are most directly responsible for assuming the safety and welfare of our citizens. Local units of government account for 62% of all criminal justice expenditures in the United States, and we are already committing a considerable portion of our budgets to public safety and crime prevention.

States account for only 25% of our country's criminal justice expenditures and Governors are rarely held culpable for rising crime rates or antiquated police forces. Mayors are. Mayors are the people elected and held accountable for providing basic criminal justice services to our citizens.

On a daily basis, Mayors are confronted with crime and criminal justice problems. A rash of "Ma and Pa" store robberies, a police brutality case,

an outbreak of juvenile vandalism—these are the typical crime-related incidents Mayors must respond to. If elderly persons are suddenly subjected to muggings on their way from the senior citizens' home to the bank to cash their social security checks, Mayors cannot tell them that something will be done a year from now if we can get a program into the state plan. No, we must immediately begin providing some extra protection—and that means either spending more local money or reducing protection in other areas.

Both long-range and short-term planning must occur if crime problems are to be addressed in a systematic fashion. We no longer have the luxury to fly by the "seat of our pants" in responding to crime control. Fortunately, the local criminal justice planning units and coordinating councils established with LEAA funds have given cities the capacity to develop and implement local crime control and criminal justice system plans. Where federal dollars are involved, however, Mayors are not assured of the authority to develop and implement local plans. Restrictive state guidelines and policies force us into a position of spending most of our time at meetings defending our programs, writing volumes of plans rather than doing planning, and responding to daily requests from SPA staffs to justify our existence. I don't think that this is what the Congress intended in passing the Safe Streets Act.

Where cities are concerned, the Safe Streets Act has not fulfilled its promise. The states have assumed all planning and funding authority and simply refuse to recognize the legitimacy of local criminal justice planning. Because of the failure of the states to implement the Kennedy Amendment, we are again asking the Congress to mandate block grants to cities and city-county criminal justice coordinating councils.

What we are really saying is that we want more responsibility in the LEAA program. We are not asking for more money—although we wouldn't turn it down—we are not asking carte blanche authority so we can buy new toys for our police departments—we are asking for planning and implementation and evaluation responsibilities so that we can coordinate local priorities with federal programs. We want to be able to use federal funds effectively—not just as an "add-on" to ongoing functions. We want to maximize our ability to perform the criminal justice planning.

As we see it, after seven years of experience, the only way to achieve our goals is to change the Act. The National League of Cities and the U.S. Conference of Mayors recommend that any new authorizing legislation contain the following principles:

1. Federal crime control planning and action funds should be distributed directly to cities or single county-city combinations with populations of 100,000 or more who shall be designated prime sponsors. The allocation of funds to prime sponsors should be based upon a formula—the significant factor of which is their share of state's crime.

2. Prime sponsors should have the authority to develop plans, set priorities, evaluate programs, administer grants, and perform auditing and accounting functions related to the administration of the federal grant program.

3. Each state shall continue to receive federal funds available under the LEAA program according to the existing distribution formula. From the total calculated for each state, each SPA shall continue to distribute funds to state agencies and units of government which do not qualify as prime sponsors. SPAs also shall be responsible for coordination of state agency programs and programs which involve more than one regional or local planning unit.

4. Restrictions should not be placed on the hiring of personnel with LEAA funds.

Turning to S. 2212, the Crime Control Act of 1976, I do not find any of the changes proposed relieving the frustrations of cities and counties. In fact, this bill does not contain any significant changes in the LEAA program.

I will, however, comment on the provision calling for a special authorization of \$50 million per year in discretionary funds for "areas characterized by high crime incidence and high law enforcement and criminal justice activity."

I will state emphatically that this proposal in no way satisfies our need for direct planning and funding responsibilities. It is apparently an attempt

to institutionalize the High Impact Anti-Crime Program. As the Mayor of an Impact City, I feel comfortable in stating that Impact discretionary funds do not come "directly" to the City of Atlanta for our use in planning and implementing our own programs and priorities. LEAA's Regional Office and the SPA continually attempt to assert total control over Atlanta's Impact program and we fight this battle daily.

This proposal simply is an inadequate response to the needs we have thus far articulated.

To conclude my remarks this morning, let me say that the National League of Cities and the United States Conference of Mayors strongly support the extension of LEAA, with the changes in emphasis we have described. Cities have the capability for planning and implementing a federal crime control program—now it is time for Congress to mandate that responsibility. The concept of LEAA when it was conceived in 1968 must finally and definitely merge with practice.

Thank you.

Mr. JACKSON. The history of the Law Enforcement Assistance Administration coming from the 1968 act I think clearly documents a sincere attempt on the part of many people to help the cities, the counties and the States solve a horrendous problem. I think we ought to compliment this committee and the subcommittee before which we are proud to appear today for your many efforts in sustaining and improving over the years this very important bloc grant program which has given life to the LEAA.

Mr. Chairman, I think that all of us are concerned about improving, so we come today with some specific comments about how that can be achieved, I think, and toward that end, let me first of all indicate that there are some experiences with LEAA which have taken place in our cities which have resulted in some difficulties. It has been declared by Congress and by Senator Hruska when he introduced the proposed 1976 Crime Control Act, that in fact this is a local problem. It is the total responsibility of State and local government, the emphasis being on the words "and local."

Mr. Chairman, in the Congressional Record for July 29, 1975, Senator Hruska very appropriately states at least three times that I can count that crime is essentially a local problem and must be dealt with by State and local governments. He goes on to say, "The emphasis of the State and local control is one of the most important aspects of this act," and I am quoting from the Congressional Record, and "inherent in the U.S. Constitution is the fundamental concept that State and local authorities are responsible for securing peace and order."

Mr. Chairman, I think the major comment that could be made today in addition to what else will be said by my colleagues, is the words "and local" are not being respected.

I think the State planning agencies—

Senator McCLELLAN. Well, at that point you say it is not being respected. Is that the fault of the State planning commission or of the Federal administration?

Mr. JACKSON. I think it is primarily a Federal problem, not exclusively, but primarily. I think he who pays the piper can call the tune.

Senator McCLELLAN. Well, do we need legislation to correct that?

Mr. JACKSON. No, sir. I think we simply need to respect what legislation we have—

Senator McCLELLAN. All right. Thank you. Go right ahead.

Mr. JACKSON [continuing]. More adequately than we do now.

Senator HRUSKA. And what is the proposition you address that remark to? What is it that troubles you?

Mr. JACKSON. It is my opinion, Senator, that the State planning agencies definitely have a place. They ought to be there. I think that you would be in a world of trouble if you did not have a coordinating agency on a State-by-State basis, because in fact, there are counties and cities and many different approaches.

But respectfully, I do believe that the State planning agency, the State crime commissions generally, with the explicit or implicit consent of LEAA, have asserted the trickle-down theory of planning instead of the bubble-up approach. Planning is State and local; but the Kennedy amendment, particularly, if it were respected I think would be an answer to the problem we are facing.

Let the State assert what are the broad guidelines. Let the State crime commissions generally coordinate the approach. But let the burden of providing that a local plan for fighting crime is not consistent with the State plan be on the State crime commission. The locality should be able to plan its own. We now have a criminal justice coordinating council in Atlanta, it was formed last December. It works out of my office. We are planning. We are one of the eight impact cities, as is Dallas.

But, Mr. Chairman, I respectfully submit that what we need to do is to be able to develop a plan that will address the local needs, submit it to the State coordinating agency, call it a State crime commission, and if they feel it is inconsistent with the broad thrust of the State goals, then the burden of proof should be on them to reject it or approve the basis of the rejection.

Senator KENNEDY. How long did you have to wait to get your money?

Mr. JACKSON. We have some grants right now that have been in the mill 8 months. Eight months, Senator. They are not very big ones. They are important. We have about 350 police officers who are in our police force, because primarily of Federal funding; about 300 of those because of the impact program. We are trying to push on. We have been able to reduce crime in Atlanta. But I suggest respectfully, whereas we definitely had had help from the impact program and help from LEAA, our major thrusts have been in the area of reorganizing our approach to a communitywide participation in fighting crime, and not necessarily just because the money is there, except insofar as the money makes it possible for us to have more people.

Senator KENNEDY. Do you have anyone on the statewide panel?

Mr. JACKSON. There is no elected official from Atlanta on the statewide panel. Not a local elected official, and I think there should be. But there are local Atlantans who are there. Not nearly enough, by the way.

Senator KENNEDY. Could I just ask the same question of the other members of the panel, whether any of the mayors have—

Mr. WISE. Yes, sir. I have no complaint with that particular part, Senator Kennedy. I feel—again, I would emphasize what Mayor

Jackson said here. Generally speaking, the cooperation has been excellent with the State agency. We do simply feel that in these particular areas of stranger-to-stranger crime—that is the title I give it—it would be better still if the city of Dallas could take the initiative, though.

Mr. JACKSON. Just for clarification—

Senator McCLELLAN. Mayor Sloane.

Mr. SLOANE. We have our safety director and a police chief on the State crime commission.

Senator McCLELLAN. Very well.

Mayor Jackson, you may proceed.

Mr. JACKSON. Thank you, Mr. Chairman.

The position that I assert today is that I have no objection to the State crime commission being there as a coordinating agency. I would not assert for the record that the cooperation has been excellent. I will assert for the record that the approach generally which is permitted by LEAA on a national level and regionally, is an approach which lets the State crime commission, I think, do more than it should do and perform a planning function, for which it is by definition and by agreement generally unqualified to perform—and that is planning for local fights against crime.

Now, Mr. Chairman, I propose specifically in connection with the 1976 amendments to the Crime Control Act, after 7 years of experience with the national act, we believe the only way we can achieve our mutual goals is to change the act substantially.

The National League of Cities and the U.S. Conference of Mayors therefore recommended any new authorizing legislation contain the following principles:

One: The Federal crime control planning and action funds should be distributed directly to cities and single county-city combinations with populations of 100,000 or more, who shall be designated prime sponsors. This has worked in other ways. The allocation of funds to prime sponsors should be based on a formula, the significant factor of which is their share of State crime.

Two: Prime sponsors should have the authority to develop plans to set our own priorities, Mr. Chairman, to evaluate programs, to administer grants, and to perform auditing and accounting functions related to the administration of the Federal grant program. It has come to my attention recently that a mayor was talking to a major regional administrator of LEAA, and the regional administrator of LEAA said, "cities should develop the capacity to anticipate the priorities of LEAA and State planning agencies."

Respectfully, Mr. Chairman, I think that is absolutely backwards.

Three: Each State shall continue to receive Federal funds available under the LEAA program according to the existing distribution formula. From the total calculated for each State, each State planning agency shall continue to distribute funds to State agencies and units of government which do not qualify as prime sponsors. State planning agencies also shall be responsible for coordination of State agency programs and programs which involve more than one regional or local planning unit.

Four: Restrictions should not be placed on the hiring of personnel with LEAA funds.

Turning to S. 2212, the Crime Control Act of 1976, respectfully we do not find any of the changes proposed relieving the frustrations of cities and counties. In fact, respectfully again, Mr. Chairman and members of this committee, this bill does not contain any significant changes in the LEAA program, and substantial changes are needed.

However, I will comment on the provision calling for a special authorization of \$50 million per year in discretionary funds for "areas characterized by high crime incidence and high law enforcement and criminal justice activity."

We state emphatically that this proposal in no way satisfies our need for direct planning and funding responsibilities. It is apparently an attempt to institutionalize the high impact anticrime program.

Now, as mayor of an impact city, Atlanta, I feel comfortable in stating that impact discretionary funds do not come "directly" to the city of Atlanta for our own use in planning and implementing our own programs and priorities. LEAA's regional office and the SPA's generally continue to assert undue control over Atlanta's impact program, and this is a matter of continuing daily concern.

This proposal therefore, S. 2212, simply is not an adequate response to the needs we thus far have articulated.

Now, to conclude, the National League of Cities and the U.S. Conference of Mayors strongly support the extension of LEAA with the changes in emphasis we have described. Cities have the capability for planning and implementing a Federal crime control program. Now it is time for Congress to mandate that responsibility. The concept of LEAA when it was conceived in 1968 finally and definitely must merge with the practice in fact.

Thank you very much.

Senator McCLELLAN. Thank you.

Mayor Sloane, you may proceed.

Mr. SLOANE. Mr. Chairman, I will not read my statement. I would appreciate it if it would be printed in the record.

Senator McCLELLAN. It will be received and printed in the record in full. You may highlight and comment on it as you desire.

[The statement of Mayor Harvey I. Sloane, M.D., follows:]

STATEMENT OF MAYOR HARVEY I. SLOANE, M.D., CITY OF LOUISVILLE, KY., ON BEHALF OF NATIONAL LEAGUE OF CITIES—UNITED STATES CONFERENCE OF MAYORS

The Crime Control Act of 1973 states in its "Declaration and Purpose" section that "crime is essentially a local problem". It urges units of local government to develop comprehensive criminal justice plans, it has provided in all of the nation's largest cities, full-time staffs devoting themselves to planning, research, and program development for reducing crime and improving local criminal justice. It has provided through the much discussed "Kennedy Amendment" for procedures through which the cities over 250,000 submit comprehensive plans to the state planning agency for approval or disapproval, in whole or in part.

This division of responsibility has provided a situation in which local professionals, local elected officials, and local planning agencies have developed plans and approaches for dealing with criminal justice problems and needs for which LEAA funds could be utilized as seed money, only to be advised in numerous instances in numerous states that statewide planners regard other needs and priorities as more appropriate for the locality.

It would appear that the announced position of Congress that "crime is essentially a local problem" could best be served by solidifying and making

more meaningful the role of local governments in planning the utilization of LEAA funds to bring about a comprehensive, system-wide approach to criminal justice. Block grants to large urban areas place planning responsibility in the appropriate place, and maximize the effective utilization of all resources.

Louisville and other cities have demonstrated and are demonstrating through the Community Development Block Grant (HUD) program that meaningful, intensive planning can occur and can provide for a broad based, community-wide, highly coordinated effort. We can maximize citizen input, we can foster and improve an "across-the-system" approach to criminal justice in which law enforcement professionals, judges, correctional officials, citizens and elected officials can come together to develop and implement a truly coordinated plan for criminal justice in a community.

There is also little question that a direct LEAA block grant to cities would facilitate more effective utilization and expenditure of local resources, would bring a more "planned" approach to the question of continuation of LEAA funded subgrants, and would enable us to seriously address the question of long range planning in the criminal justice system.

A basic question which I am sure the Committee and indeed the entire Congress will ask is, "If direct LEAA assistance is made to the cities, will cities be able to produce actual reductions in crime?" Let me say in response that we believe that the LEAA program has been effective in improving the system of criminal justice, though it is apparent that federal dollars can never be a cure-all or panacea. However, I feel that a city's ability to plan and design its own program for the expenditure of LEAA funds offers the opportunity to impact special problems within a city which may contribute directly and substantially to the city's crime problem. Such an approach would enable us to obtain a more accurate reading on what works and what does not, and would clearly offer a greater potential for achieving long range reductions in the rate of crime.

Our concerns about the LEAA program as presently constituted are not with individuals, but are rather with a system that attacks an essentially local problem faced at close range by local elected officials and professionals by giving local governments the least to say about how the problem is addressed.

It is time that LEAA funds go directly to the cities, providing an approach to criminal justice in which the tough decisions on local crime are made in City Halls rather than State Houses.

I would also like to address briefly several specific LEAA issues:

1. "*Red Tape*."—The present "input" into the planning process for local governments is at the bottom of a multi-layered system. Urban governments develop comprehensive criminal justice plans per the Kennedy Amendment and submit them to the State Planning Agency. The SPA, according to the Crime Control Act of 1973, then approves or disapproves, in whole or in part, the programs and priorities identified by local government. This process in itself undoes whatever comprehensiveness there was in the local government plan, and provides in its stead a piecemeal package for localities, providing assistance for those areas which the SPA deems to be the priorities for local government.

However, even beyond that, additional layers appear. The state comprehensive plan is subject to review by the LEAA Regional Office and the national LEAA administration. Needless to say this whole process can take months, and more importantly, the end product often scarcely resembles the "needs and priorities" identified by the local planning agency and local government. Therefore, cities and counties many times are placed in situations in which applications may be considered for programs because funds are available, rather than because of a carefully planned, predetermined need or a careful consideration of impact on local government and local criminal justice.

Allow me to cite a couple of examples. Since 1973 the Louisville and Jefferson County Criminal Justice Commission, which is composed of elected officials, criminal justice professionals, and citizens has included in its plan submission to the Kentucky Planning Agency several items which are of high priority to local government. However, these programs have not yet been considered a priority at the SPA level. One of them is the Columbus,

Ohio 24-hour magistrate/night prosecutor program which was an LEAA exemplary project and was recommended to all major localities as a model initiative. This program of course would provide round-the-clock court services, screen away from the system those minor cases that do not belong in the criminal justice system but which tend to clog our dockets, and thereby expedite the large number of serious cases through the system. Such a program clearly would assist us in dealing swiftly and surely with those serious offenders who so often abuse the criminal justice system because of their experience in it. I emphasize that this program was identified as a priority in four successive Louisville and Jefferson County annual plans, but as yet has not been implemented. We have presently made application for discretionary funds to Washington incorporating this concept in a larger project category, since we have not been able to undertake it through the state block grant.

A second priority area for which we have identified a need and requested the allocation of funding in four successive years, is that of victim assistance in the criminal justice system, specifically the implementation of a restitution program similar to that underway in Minneapolis. Yet in this time of national discussion of "blaming the victim" and "putting the victim on trial" we have not been able to undertake this high priority program for local government.

There are other areas as well, including the development of community-based alternatives for juvenile status offenders, the development of a system-wide Criminal Justice Training Academy, the development of intensive treatment programs for hard-core delinquents, adult offender diagnosis and evaluation, etc.

Local governments know that the federal government can not provide all things to all people. Yet the times are tight for cities, and we need to get maximum benefit from those funds we do receive. We need to insure that we do not lose the ability to undertake "pilot" projects. With meaningful prior planning we can then be prepared to assume the costs three or four years ahead.

2. *Inconsistency of Application by State Planning Agencies.*—Some states have adopted percentage allocation based on crime rate or population or combinations of factors, some states such as Ohio have provided for direct planning of urban area projects by urban area planning agencies, while in other states such as Kentucky the full and complete planning and implementation role rests in the State Planning Agency. We feel Congress can and should bring uniformity and consistency to the program.

3. *Funding Ratios and the Concept of Match.*—An examination of the legislative history of the Crime Control Act of 1973 leads me to the conclusion that the real purposes for the retention of local match were local fiscal control, governmental responsibility and local commitment to criminal justice matters, rather than any intent to require substantial levels of local funding at the outset.

The purpose of the LEAA program is to encourage the development of innovative, experimental, demonstration programs. A required 25% hard, cash match as we have for localities in Kentucky imposes a very difficult burden on units of local government. Its effect is to make many experimental projects impossible.

In addition, the Crime Control Act requirement that match be provided in cash, makes the present Kentucky 75-25 burden far greater than the 75-25 requirement under the previous law.

It is our feeling that match requirements should be eliminated altogether. Quite aside from the point that match is a bureaucratic nightmare, the fact is that any local government applying for funds makes a very substantial investment in overhead and indirect costs to obtain and administer those funds.

4. *State-Local Treatment.*—In Kentucky for the past year we have experienced a situation in which the Kentucky Department of Justice has received projects funded on the basis of 90% federal and 10% match, while localities have been funded on a 75-25 basis.

The Kentucky precedent is dangerous for localities all across the nation as long as the LEAA program is operated on the block grant to states basis. It is essential that the new legislation adopted by Congress contain specific language which affirms the application of 14th Amendment "Equal Protection of Law" to different governmental entities.

Congress should mandate SPAs to treat local units of government on the same basis that they treat themselves.

In conclusion, we are grateful for the support we have received through the LEAA-Crime Control Act program. In Louisville and Jefferson County, LEAA funds have helped us to implement a number of innovative, highly successful projects. Our community was a leader in the field of crime prevention with Crime Prevention Teams being established in the Louisville and Jefferson County Police Departments and citizen involvement has been a major emphasis. The National Crime Prevention Institute, located in Louisville, was established to train law enforcement personnel from across the nation in crime prevention techniques. Other exceptional programs undertaken with LEAA assistance include the first local Public Defender program in Kentucky, the first Community-Based Misdemeanant Correctional program in Kentucky, a program of Minority Recruitment for our Police Department, a series of Delinquency Prevention Programs in our public schools, including an Alternative School program for chronic delinquents and behavioral problems, a Metro-Narcotic Strike Force to provide coordinated community-wide drug enforcement, and there are others.

Since the inception of the Safe Streets Act program Louisville and Jefferson County have received roughly eight million dollars of LEAA funding and we have attempted to impact the total system of criminal justice. We are particularly proud of the record of continuing LEAA funded projects that have demonstrated their value. Out of a total of 105 funded programs through 1974, only two have been terminated by local government. Of course the 105 figure does include some one-shot grants for continuing education of judicial personnel or for minor equipment purchases. However, there are sixteen major ongoing programs which have been continued with local funds and another twenty-two major programs which are continuing with other funding sources, federal or local, and I would add that in a demonstration project program we feel that we need not apologize for programs which were terminated because our evaluation showed them to be of minimal value. We believe that the criminal justice system of Louisville and Jefferson County has been improved because of the LEAA program.

However, changes in the structure of the program to enable cities to plan and program for their own needs can make LEAA much more effective and offer the only real long-range opportunity for the program to affect the incidence of crime in American cities. I urge you not to scrap a program that has certainly had worth, but to make LEAA more viable and effective in a 1976 setting by bringing American Cities into the heart of it.

Mr. SLOANE. Thank you.

I would just like to add a few comments to augment what my colleagues very eloquently stated and I fully agree with.

We have a particular problem in Kentucky which other States may have, and that is the whole concept of local match.

It is usually considered that the grants are 90 percent Federal and 10 percent local. And they come that way to the State Planning Agency of Kentucky.

However, because the State Planning Agency wishes to distribute the grants on a broader basis, is allocating to local municipalities on a 75-25 basis.

Perhaps you are aware that Louisville and Jefferson County has gone through great turmoil in the last month over the issue of busing, and they have expended a considerable amount of money locally to just enforce order. It will be very difficult for us to come up with the 25 percent match for LEAA programs to implement what we think are very important programs, and I think there should be at least a uniformity around the country in terms of how the States match the money with the municipalities, especially since they are getting them on a 90-10 basis from the Federal Government.

Second, I want to emphasize the very high priority we place upon the development of a plan and a goal. That we spend—this particular document takes us 2 to 3 months to compile by a regional commission of city and county elected officials and staff and citizens to provide for the State for their consideration. To have this plan, which includes prevention of crime, which includes law enforcement measures, which includes judicial measures and correctional measures, to have this plan chopped up by the State and fragmented really is not in the interest of accomplishing—

Senator McCLELLAN. This is done by the State agencies?

Mr. SLOANE. Yes, the State agencies. And if I could just read one page for you, sir.

Some of the programs that we have asked for that have not been approved by the State, one of them is the Columbus, Ohio, 24-hour magistrate/night prosecutor program which was an LEAA exemplary project and was recommended to all major localities as a model initiative. This program of course would provide 'round-the-clock court services, screen away from the system those minor cases that do not belong in the criminal justice system but which tend to clog our dockets, and thereby expedite the large number of serious cases through the system.

Such a program clearly would assist us in dealing swiftly and surely with those serious offenders who so often abuse the criminal justice system.

I emphasize that this program was identified as a priority in four successive Louisville and Jefferson County annual plans, but as yet has not been implemented.

We are presently trying to get this program through discretionary funds from LEAA.

A second priority area for which we have identified a need and requested the allocation of funding in 4 successive years is that of victim assistance in the criminal justice system, specifically the implementation of a restitution program similar to that under way in Minneapolis.

These are two examples, and there are others. We feel that we are developing locally a balanced program that certainly does not have an overemphasis on hardware but deals with the multifaceted problems of crime, and we feel that we are the ones that are ultimately responsible for crime, and we are the ones that get blamed for it if it is not effectively pursued. And we ought to be able to develop plans which have some future, in terms of 2 or 3 years, that we can plan our local matching moneys if we need them to coordinate with the Federal and the State moneys that are available.

So in closing, I would like to say, first of all, the LEAA program has done a tremendous amount for municipalities and counties throughout this country, and we certainly commend its authors.

We are simply requesting some revisions of how the program is administered and would like you to consider those.

I appreciate being allowed to testify.

Senator McCLELLAN. Thank you very much, Mayor.

Senator Hruska, do you have any questions?

Senator HRUSKA. Yes, I have some questions, Mr. Chairman.

Senator McCLELLAN. Please proceed.

Senator HRUSKA. I want to thank the three witnesses for coming. You bring us a voice from big cities, and they are certainly beset by many, many problems.

The thrust of the position testified to by each of you, however, is not a new problem; it is not an issue that is before this committee or before the Congress for the first time. For the sake of an easy label, it is sometimes known as the "big city" approach to the division of the funds that are available under LEAA, as opposed to a block grant system on a statewide basis.

Whether you use the phrase, "trickle down," or whether you use the phrase, "required by Federal statute," the money is still divided pursuant to the Federal law and the regulations and the decisions of the State Planning Agency to other political subdivisions of the State.

In 1968 we tried a different formula, as you will probably recall, and the original proposal there was that out of all the moneys appropriated to LEAA, 85 percent had to be distributed among the States and be disposed of pursuant to the State Planning Agency goals and priorities.

That was found to be unsatisfactory, and a new formula was then devised, which is embraced in section 303(a)(2). And that now reads, in essence, that the percentage of Federal dollars that will go to the State and local law enforcement agencies and political subdivisions will be in the same percentage that those local and State political subdivisions are funded by the State and local subdivisions. And so instead of 75 percent of the moneys going to local political subdivision, the formula is based on what the State and local political subdivisions do for themselves. Each State Planning Agency is required under section 303(a)(2) to make distribution pursuant to that computation.

Now, then, I do not quite see how we can improve on that formula, and I will tell you why.

You see, we speak of local authority being responsible for law enforcement, and so they are, but not all of them. For example, the prosecutors are under the State law, the courts are under the State law, as are the corrections systems. The efforts in suburban areas, the efforts in adjacent territory, the regional areas and so on; now, those are local, also, but they are not big cities. They are not within the corporate limits of Atlanta or Houston or anywhere else, but they go beyond the big cities.

It was for that reason that it was considered necessary to devise some sort of formula by which the State planning agencies would be governed and effect some equitable result.

Now, what better formula is there than to rely upon the emphasis that the citizens and the political subdivisions and the States themselves place upon the problem? If the city has a big problem and has a bigger proportion of the law enforcement funds statewide, they get a bigger share.

Now, I would invite your comments on that approach, with two further suggestions.

One is, we are not talking about a great percentage of the moneys that are spent on State and local law enforcement, as you well know. In fact, in the statement of Mayor Jackson, 62 percent of all criminal justice expenditures in the United States are covered by local units, and 25 percent by nonlocal units. But out of the great total for law enforcement in America which approximates some \$13 billion or \$14 billion, the total appropriation for LEAA in all of its aspects is about \$800 million, or less than 5 percent. And when you lower it down to the amount of the bloc grants, it is considerably less than 5 percent of the total expenditure.

The final comment I make is this.

This is the fourth go-around, this approach of dealing directly with the cities, saying we have the brunt, we are on the front line, that thin blue line, and we get all the blame and we have to run on our crime record, and so on. This is the fourth go-round.

In the 1968 act it was turned down. The last time it was voted on, in 1973, there were only 24 votes in the Senate for that approach and 68 against—about 3 to 1. And in the previous attempts, there were only 57 votes cast, but there were only 16 votes for it and 41 against it.

Now, I outline this as a practical political approach. But more ideally, what I would like to know is, what do you suggest as a substitute for the formula for distribution of these funds by State planning agencies as contained in section 303(a)(2)?

Mr. JACKSON. Well, Senator Hruska, let me respond in a couple of ways to your question.

No. 1, what I think we are trying to say, or at least I am trying to say, and I feel confident it reflects the position of the U.S. Conference of Mayors, is that there is not a great deal of satisfaction with how the present law works, No. 1. There may not be any need for a new broad law, but there definitely is a need for amending the present law to mandate local control.

My complaint has not been today the amount of money. The complaint that comes today, respectfully, is about how the planning is carried out.

I would suggest to you, Senator, that the proposal that we make is as follows. In response to your last question; and that is that the funding mechanism would be some variation of the present system. But the real thrust of this committee can be in making the law such that the local governments in planning are not required to adopt State priorities. Local governments are not required to adopt State approaches initially, but the local governments may plan their own, submit their plans to the State's great plan in the sky, so to speak, and if the local plan subverts, let us say—if it subverts the State plan, if it is in direct contravention to it, if it is very negative in carrying out the State approach, let the State show those facts by positive evidence; but failing same, the cities may then move on with their plan.

I propose indirect grants for the cities. But if there are units that are not the big cities, as you have mentioned, there could be a combination county-city approach, as I have stated in my direct testimony a few moments ago.

Another point is that we recognize only about 5 percent of the funds in national law enforcement are funds which come from the Federal Government, primarily LEAA funding. But in my city, Atlanta, the city I am proud to serve as mayor, we have about \$25 million in our annual budget in criminal justice and about \$5 million of that is Federal money, but \$4 million of which is impact funding, and about \$1 million, of course, from LEAA action grants.

Senator HRUSKA. Is that the high impact crime area?

Mr. JACKSON. It is.

Senator HRUSKA. Is that discretionary or is it bloc grant?

Mr. JACKSON. It is bloc grant.

Senator HRUSKA. From the State planning agency?

Mr. JACKSON. That is correct; one of the eight cities in this country with this program.

We are facing, by the way, a cutoff September 30, 1976, of any moneys we will not have spent by that time, or received, in fact. I think that is not fair. I think that is not right. But that is what we are facing right now.

And what I am suggesting is that in Atlanta, therefore, about 20 percent, maybe 18 percent of our funding in criminal justice is Federal money, which means 5 percent nationally, but 18 percent in Atlanta or 20 percent in Atlanta. Now, that is a very significant proportion of our budget.

There is no question in my mind that if LEAA took its marbles and ran, which I have no reason to believe will happen, and I hope it will not happen—

Senator HRUSKA. I hope not, too.

Mr. JACKSON [continuing]. We would really be in serious trouble. We might be able to recover, but I would not be able to promise you that right now.

So 5 percent nationally does not necessarily reflect Senator, how dependent many cities are in this country on Federal funding, and therefore, how important it is that we be able to assert more local planning direction rather than have to comply with State-set priorities initially.

Senator HRUSKA. Now, 20 percent of the criminal justice moneys coming into the city of Atlanta are Federal funds; is that the figure you cite?

Mr. JACKSON. Approximately, yes.

Senator HRUSKA. The problem does resolve itself into two sectors. That is, the amount of money that will be eventually coming to the cities; the other is this inhibition visited upon you by the State planning agency.

Suppose we transferred the right to make inhibitions or to get rid of them from the State planning agencies to a bureau here in Washington. Would we be better off or would we be worse off?

And would Atlanta be better off, or Dallas?

Mr. JACKSON. I think that is the same question.

Senator HRUSKA. I raise it as a question. It has to be lodged someplace. Where is it better to lodge that decisionmaking authority? In Washington? It would either have to be lodged in Washington, and governed by bureaucratic processes and invested with discretion

and to whom all cities would have to repair and come as supplicants and say, please give us more money because our situation is different, or as the Congress considered and said before, no more of that. We have had too much of that, and it does not work. We will leave it to the State planning agencies.

You presumably have democratic processes in each one of your States, and if you are not happy with the Governor who presides and creates or designates the State Planning Agency, if you are not happy with the people who are on that State Planning Agency, something can be done about it. But we cannot do that.

What is the answer to that type of argument?

Mr. JACKSON. Senator, I think Congress has already addressed that question, and I think Congress has already answered that question, because that was a question under the Comprehensive Employment Act, and Congress said, let us go with that proposal that you suggested would not work. Congress addressed this under the Community Development Act. Congress said, okay, let's go with the proposal you suggested. It would not work.

A city nowadays comes in supplication, it seems, to anybody who has a reasonable chance of helping the city, be it a State crime commission or a Federal agency. I have no objection to dealing with a State crime commission, Senator. I am not suggesting that. I think there was a definite role for State crime commissioners. Gov. Busbee in Georgia has appointed some excellent people for the State Crime Commission.

The point is, however, that the role that is being played by the State crime commission is not the role that I hope Congress envisioned in 1968, and by its amendment in 1973. And I would suggest therefore that what we need to do is to clarify that by amendments mandating local control and clarifying that the localities may then respond to the States. The States may look at the local plans and reject them, but prove the reason for the rejection, if the local plans do not comply.

Senator HRUSKA. Well, that would solve that part of it, and I think that is within the area that we can consider specific proposals. The subcommittee is composed of more people than myself, happily. It is a subject that should be considered seriously, because if there is a stultifying of the local authorities to a point where they cannot do as good a job as they think they can do, maybe there should be a greater measure of proof required of the State planning agency, before it rejects your own formula.

Does that wrap it up in a way?

Mr. WISE. I would have no trouble with that, Senator, personally. But I think there is something that needs to be clarified here, judging by your question of a moment ago. I do not think there is a zeroing in on the municipality alone. For example, let me give you Dallas. We have a Criminal Justice Council, on which the mayor serves. I serve as president, and the judge or county administrator, I believe it would be in this area, is the vice chairman of that Criminal Justice Council. We have had excellent cooperation, in fact more, between city and county, in this particular operation that we have in any other in the history of the Dallas area.

We recognize in the city of Dallas that, for example, if you put a shotgun squad, as it is called, in a drive-in convenience store—if you put a policeman with a shotgun to try to prevent an armed robbery, just inside the edge of the city limits in Dallas, and you do not do it in the suburban city just on the outer edge of that border of the city of Dallas, in our case, we will say, Richardson, or Mesquite, or Grand Prairie, one of the smaller towns, the armed robber will simply go to the convenience drive-in store at the suburban city and commit his crime there. We recognize therefore the Criminal Justice Council has to include that entire geographic area of the city of Dallas.

Part of your question bothered me a moment ago, because I believe that we do, in the larger cities, recognize that problem. And the regional efforts of the Criminal Justice Council have been highly successful.

I would try to clarify it to that extent, that we are not trying to zero in only on the inner inner city. When we speak of the inner city, perhaps we should have said the inner city, plus the area surrounding the borders of the city.

But I would echo—beyond that—I would simply echo what Mayor Jackson said, that this is an imbalance, we feel, between the authority of the State in recognizing where those specific funds should go, for the street crime, for the stranger crime, for the robbery, for the burglary. Bring some of that authority back down to the local level—and when I say local level, I am including that Criminal Justice Council, not necessarily just for the city of Dallas.

Senator HRUSKA. More regional?

Mr. WISE. Yes, sir.

Mr. SLOANE. We in Louisville have a Regional Crime Council also. The city and the county are working well, and we feel that approach should be followed.

I am just reviewing the amount of funds that we are getting in the last couple of years. We have 36 percent of the crime in Kentucky, 22 percent of the population. In the last few years, we are receiving from 12 to 15 percent of the LEAA funds. If you combine that with the difficulty of a 75-75 local match, it makes it very difficult.

Senator HRUSKA. Well, of course, there is section 303(a)(2); presumably the State planning agency is following that. If it is not, take them to task. Take them to task, but if they are following it, it is not something that trickles; it is not something that is permitted; it is not something that is done by sleight of hand. It is required by section 303(a)(2).

Now, if you want that amended, tell us, and we will battle it out again. But that problem cannot be reached without reference to that section. 12 or 14 percent, whatever it is, maybe that is the ratio of all of the law enforcement funds in similar situations to the funds that are proposed to your city. I do not know—you might canvass that and see.

I want to conclude my questioning here, because we have another witness who must catch a plane; but I would suggest this. That idea of shifting the burden to the State planning agency on the

legitimacy or propriety of the local plan, that is a good idea for the purpose of discussion and evaluation. Could you help us to this extent? Could you, or your staff, look into the text of this bill and see where we could fit it in in words and phrases? Could you help us on that score?

Mr. JACKSON. We would be very happy to.

Mr. WISE. Yes, sir.

Senator HRUSKA. It would help us to see it in greater depth.

Mr. JACKSON. Senator, section 303(a)(2) does not deal with how a State orders a city to spend the money.

Senator HRUSKA. On the other hand, I think it does.

Mr. JACKSON. What I suggest it deals more with is the procedure of a flow. What we are talking about, literally, is the methodology of initial planning, the initial setting of priorities. As do my colleagues here, I sit in the chair, the Atlanta Criminal Justice Coordinating Council. It covers the city of Atlanta, it covers Fulton County, and it covers a neighboring county, DeKalb County. We have judges, prosecutors, public defenders, private citizens, law enforcement officials; we all sit together. The next meeting is on Monday.

We are preparing a comprehensive plan after our regional body, which is our A95 review procedure body, did not do a very good job of it for a few years, and we think that is an appropriate method. That is what we are talking about.

Respectfully, Senator, the routine that I think is suggested by the Kennedy amendment is one that would stand us in very, very good stead.

Senator HRUSKA. Well, you have brought us some very thought-provoking points. We are going to wrestle with them as well as we can.

I thank you.

Mr. WISE. I would like to express our appreciation for this committee's interest in this matter, which we consider to be one of the principal problems of the urban centers.

Mr. SLOANE. We second that.

Mr. JACKSON. We thank you very much.

Senator McCLELLAN. We thank you very much. If any member of the committee desires to submit some questions to you for answers for the record, I am sure you would be perfectly willing to cooperate with the committee. I do not know that there will be any, but I think this committee wants to very conscientiously go into these problems and try to do what the evidence will indicate will strengthen and improve this legislation, improve this act, and get more for our money in the administration of it.

There may be honest differences of opinion at some points but that certainly will be our purpose. I probably would go on with the questioning of you a little further, but we do have a witness who is most anxious to catch a 2 o'clock plane, and we are going to try to accommodate him.

Thank you gentlemen very much.

Mr. WISE. Thank you very much.

Mr. JACKSON. Thank you very much.

Mr. SLOANE. Thank you very much.

Senator McCLELLAN. The next witness, Mr. Vance, come around, please.

The Chair will make this observation. If the other two witnesses are going to be comparably brief, we will undertake to finish, Senator Hruska, this morning. I can go until 1 o'clock, but I cannot go beyond that. We will try, if we can expedite it now, to give these three witnesses an opportunity.

Senator HRUSKA. Very well.

Senator McCLELLAN. Mr. Vance, you may identify yourself for the record, and state whom you represent.

STATEMENT OF CAROL S. VANCE, DISTRICT ATTORNEY, HARRIS COUNTY, HOUSTON, TEX.; PAST PRESIDENT, NATIONAL DISTRICT ATTORNEYS ASSOCIATION

Mr. VANCE. Yes, sir. My name is Carol Vance. I am the district attorney of Harris County. That includes Houston, Tex., in its jurisdiction, and I am representing myself. I think I also speak for the National District Attorneys Association, in that my comments are compatible with the positions that prosecutors around the country have generally taken concerning the LEAA.

Senator McCLELLAN. Very well. I note you have a prepared statement of some length. Would it be satisfactory to you for your statement to be inserted in the record, printed in full at this point, and let you highlight it?

Mr. VANCE. Certainly, sir.

Senator McCLELLAN. Very well. That will be done.

Now, you may proceed.

[The prepared statement of Mr. Carol S. Vance follows:]

OFFICE OF THE DISTRICT ATTORNEY,
Houston, Tex.

WHAT LEAA HAS MEANT TO THE PROSECUTOR

(By Carol S. Vance, District Attorney, Harris County, (Houston) Tex., Past President, National District Attorneys Association)

THE PROSECUTOR'S DILEMMA

The true role of the prosecutor is probably the most misunderstood in the criminal justice system. Probably no average citizen can comprehend how the prosecutor must be all things to all people. His broad exercise of discretion as to which cases to accept in the system, which to investigate, which to present to a grand jury, which to divert and which to try, covers a breadth and depth unique to any role in public service.

The prosecutor is expected to be the hard belting adversary, but he must aggressively dismiss prosecution where evidence is insufficient or illegally obtained. He must work closely with the policy and other governmental agencies, but he must also investigate complaints against the police and allegations of public corruption against the same government agencies. He finds himself in the role of investigator, the role of lawyer, and the role of judge as he engages in plea bargaining and delicate decisions such as seeking the death penalty or deciding not to prosecute a case. His independence is assumed, but a good prosecutor will reflect the priorities of his community as he directs his limited resources and exercises his broad discretion.

The prosecutor must be responsive to the people he serves. He must work closely with all local agencies as he is at the hub of the criminal justice system, and he must understand the need of his constituents.

From the nature of this challenge, two truths about his office emerge:

- (1) The public prosecutor must remain local in nature to be effective.
- (2) The prosecutor in America today has not obtained the resources or degree of professionalism that his responsibilities deserve, and greater efforts must be put forth to remedy this situation.

Unlike those who enter into a career in law enforcement or the judiciary, generally the prosecutor's office is a training ground for lawyers fraught with low pay and an economic situation that causes the prosecutor to have to engage in private practice. Even where this is not allowed, such as my staff, the pay and the resources are sadly lacking.

But, gentlemen, I am pleased to say as one who considers himself a professional prosecutor (eight years as a trial Assistant District Attorney and 10 years as a District Attorney) that things are changing, and progress is being made. The LEAA has played a very significant role in this greatly needed evolutionary process. Therefore, I would like to zero in on two specific areas:

(1) Tell you what LEAA is doing for the local prosecutor nationally, statewide, and locally.

(2) Explain why this assistance needs to be substantially increased to do the job.

With the hope that my comments will be 100% credible, I will limit my observations to those programs directly affecting my office and the people of my community.

NATIONAL PROGRAMS ASSISTING LOCAL PROSECUTORS

Crime in America has grown to be an extremely mobile and scientifically equipped organization, not to mention being highly organized. To meet the attack of this insidious segment of our society which seeks by unlawful means to exploit its fellow citizens, the prosecutors of America also needed to organize. This was done in the 1950's, and since that time the National District Attorneys Association has served as a medium through which prosecutors can meet and exchange ideas.

During the fiscal year 1974-75, total receipts for the NDAA came to \$632,070. Of this total, \$327,322 came from LEAA. You can see that whatever the NDAA contributes to the nation's prosecutors is due in great part to the LEAA. Among the services offered by the NDAA are an Amicus Curiae Bureau. The Association submits amicus briefs in cases that involve major issues of law enforcement and the prosecution function. These briefs are filed in the United States Supreme Court.

One of the most important functions of the NDAA is educational, keeping prosecutors abreast of changes in the law, of technology, of management techniques and trial tactics. LEAA through block grant funds to the states enables the new prosecutors, or the specialist or the old hand to attend meetings and conferences. The NDAA has sponsored drug conferences, organized crime conferences, conferences in juvenile justice, conferences for newly elected prosecutors, and police-prosecutor conferences among many others that help us better understand our roles and our duties.

The NDAA sends out a bi-monthly magazine, "The Prosecutor," which includes Association news, a "Cases, Commentaries and Briefs" section, and articles by leaders in the criminal justice system. NDAA also publishes and distributes specialized "how to" manuals to help the prosecutor in his day to day problems. The subjects range from specialized areas in the criminal law such as search and seizure, to the newest developments in criminal law administration. There are also audio tape cassettes, training films, and drug films available.

In recent years, the role of the NDAA has been greatly enhanced and expanded thanks to grants from the LEAA. The NDAA has received four technical assistance grants over the last three years which have gone to the management, evaluation, and contracts division. In 1972, the Association was awarded its first Technical Assistance grant. The purpose of the grant was to provide management evaluations for prosecutors' offices by utilizing the expertise of practicing prosecutors. This concept has been nurtured and enhanced through out the duration of the Project. At absolutely no cost to the local prosecutor, the Association is able to provide management studies for prosecutors' offices. The great trial lawyer often is a novice administrator in desperate need of help.

Another project which is now completed was funded by the LEAA. This was our National Law Student Internship and Placement Program. The purpose of this program was to encourage superior law students to pursue careers in

the criminal justice system. Selected speakers from the NDAA spoke at over 150 law schools, and the result was that there were 2,000 applications for 100 summer internship programs. The unquestionable success of this program has been most encouraging.

Funded by another Law Enforcement Assistance Administration grant, the NDAA has recently initiated a project to provide assistance to working prosecutors in developing standards and goals. Because of variations in prosecuting offices throughout the nation, NDAA has categorized the district attorney's offices into six homogeneous groups according to 21 external factors, including case load, population, office staff size, etc. The standards are not utopian though some may take years to accomplish. Overall they are something to strive for. It is expected that the standards developed by this project have the potential of having the most far reaching success of any project which LEAA has effected. Again we strive for professionalization.

Another recent project made possible through an LEAA grant has been the establishment of a Commission on Victim Witness Assistance. This Commission has eight field offices where various forms of ways to aid victims and help them fulfill their role as successful witnesses are being tried. The Commission has also distributed public information materials including a brochure, "A Project to Help the Victims of Crime," another brochure, "Sixteen Ideas to Help District Attorneys," "Victims Rights" Wallet Cards, "Victims are People" Buttons, and brochures entitled, "Criminal Justice Improvement Program."

Although my office is not in this particular program, with the stimulus of these examples and the concrete suggestions offered by the written literature, I am planning to start a program in this area, and I feel sure that many other prosecutors who are not actually receiving money for pilot programs are thinking in terms of working such programs into their budgets now that the seed has been planted by this LEAA funded project. Again, this demonstrates the use of ideas on a national scale to assist the local prosecutor.

Finally, at the national level, we have the National College of District Attorneys, founded in 1969 for the purpose of providing postgraduate education and training to public prosecutors. Since that time, with the financial support of private foundations and the LEAA, to the tune of some \$631,815.13 annually, the program of the College has grown considerably. I have had the privilege of serving on the Board of Regents and feel that the College has made great contributions to the training of prosecutors whether they have been District Attorneys for 20 years, have just passed the Bar, or are somewhere in between.

For several years now the College has offered a three-week course in the summer, called a "Career Prosecutor Course." This course has become more in demand every year, and this past summer the College offered two sessions. I have sent several of my Assistant District Attorneys to the course each year and have found it well worth their time. We need to instill professionalism in the prosecutor and offer career incentives so that he will not serve in this capacity for a year or so when he first graduates from law school, and then go on into private practice just when he is becoming a real asset to the office. The courses offered by the NCDA have encouraged longer tenures on the part of the prosecutors who have attended them, and the savings to the State here can hardly be calculated.

The College also offers courses for Executive Prosecutors, new prosecutors, and a number of three to five-day seminars on topics of mutual concern. A copy of this year's programs is attached. Recently they expanded to provide a bibliographic service on resource materials for the prosecutorial community.

LEAA AT WORK AT THE STATE LEVEL

One of the best features of LEAA is the block grant concept under which it operates which puts the ultimate decision-making responsibility on the shoulders of the state governor. No prescribed, uniform solutions are arbitrarily sent down from a central government. The philosophy is simple—and accurate. Crime is a local problem, best dealt with at the local level.

Our Governor, working with a capable staff and an Advisory Board of which I am a member, has awarded 180 grants to local prosecutors since 1970. These grants have been the result of grassroots planning, with each region detailing information on crime in its area, the capabilities for coping with crime, and projected solutions.

Also at the state level our Texas District and County Attorneys Association has received \$400,000.00 annually, and every cent of this money has been spent

on prosecutors. The money has enabled us to get together to exchange ideas and has been used for training and continuing education programs for prosecutors. There is also a stipends program which has allowed several hundred prosecutors to attend various seminars throughout the United States.

Prosecutors were able to get together several years ago when Texas was writing a new Penal Code to make considerable input into this Code. This Penal Code has been in effect for almost two years now and is proving to be highly workable and quite a milestone in law reform in Texas. Its success is due in no small part to the fact that prosecutors, the most knowledgeable practitioners of criminal law, were able to give their time and ideas to its creation.

Along similar lines, the hundred-year old Texas Constitution, an antiquated document which has been amended piecemeal for years, needs a complete revision. Our court system is rigid and needs reorganization. Texas prosecutors have been able to get together and make considerable input into the new Judicial Article for the proposed Constitution.

Prosecutors throughout the state have also met to work out standards and goals to improve the profession within our state.

The Texas District and County Attorneys Association has been active in the publications area, including an Extradition and Rendition Manual, a Grand Jury Handbook, a Juvenile Procedures Manual, a Controlled Substances Manual, a Handbook for Law Enforcement Officers, a Felony File Folder, indictment forms, motion to Dismiss forms, and a Civil Rights Handbook. The Association sends out a monthly newsletter containing comment on key decisions from the Court of Criminal Appeals (Texas' highest court in criminal cases), summaries of new laws of interest to prosecutors, and ways in which problems have been handled in various jurisdictions.

In addition to arranging and coordinating the training conferences, development conferences and administering the prosecutor stipends program, the staff of the TDCAA provides legal and technical assistance to prosecutors throughout the State upon request, and writes and files amicus curiae briefs with the Texas Court of Criminal Appeals in cases of vital interest to prosecutors.

Despite what I have said, it is next to impossible to describe the value of LEAA to Texas prosecutors through the Texas District & County Attorneys Association because the primary accomplishments are intangible. Without question, the morale, self image, and ability of Texas prosecutors have improved immeasurably as a result of LEAA funds. This has truly been the seed money so to speak so that we might grow in our profession.

LEAA ASSISTS MY OFFICE AT THE LOCAL LEVEL

The Law Enforcement Assistance Administration has granted money to many, many worthwhile projects here in the Houston area, to probation work, to rehabilitation programs, to crime prevention projects, and to other district attorneys. I would like to be more specific about the help which our office has received since I am most familiar with those projects.

Houston is one of the most rapidly growing metropolitan areas in the United States, and the crime rate is unfortunately rising over our entire country. Combine these two facts and you can visualize the growing pains faced by my office in the last five years. Several years ago we had a management survey financed by LEAA and this invaluable help enabled me to reorganize the office to accommodate a staff of over 100 assistants which had more than doubled since I became District Attorney in 1965.

Based on recommendations in the management survey, we applied for a second grant so that we could implement the suggestions made in the survey. Through a screening and management grant, I was able to hire an Administrative Director to supervise the hiring and direction of my burgeoning staff. I also added a professional writer who has written or edited three office manuals and numerous publications which are offered to the public free of charge giving them information on subjects such as consumer fraud, how to serve as a witness, crime prevention to businessmen and citizens, pollution, and drunk driving. We constantly provide technical and practical publications to police concerning the penal code, search and seizure, recent decisions, and a myriad of information. The Screening and Management grant supplied us with money for sorely needed equipment and with funds to supply the public with the informational brochures.

One of our most important grants has enabled us to set up an Organized Crime and Frauds Division. We have seven lawyers who are freed from the routine trial demands of handling several cases a day. These attorneys handle the sensi-

tive, complicated, and often lengthy investigations needed to bring organized criminals, and white collar embezzlers to trial. These lawyers have become our office experts in election frauds and have handled several unusual murders, requiring more than the normal amount of case preparation. One prosecutor worked exclusively with the Drug Enforcement Administration program before it was phased out in Houston, and this person still works exclusively with drug cases. This grant, the first of its kind in the United States, was copied in Boston and Dallas and other cities due to its success.

We are one of 15 offices participating in the National District Attorneys Association's Economic Crime Project Center, funded through a grant from the Law Enforcement Assistance Administration. The purpose of this project is to increase the capacity and capability of local prosecutors to detect, investigate, and prosecute economic crime offenders. The national office has published "Economic Crime: A Prosecutor's Hornbook," now in its third printing due to heavy demand. They offer us excellent workshops, and a highly specialized communication system. My Consumer Fraud Division has published a pamphlet on the subject, so that people will know how to avoid being a victim, and what to do if they should fall victim to a fraud. The Division handles hundreds of calls a month and advises, investigates, or files charges as the facts demand. So far this year over \$400,000.00 restitution has been made, and most of this is small sums to people who could not afford to be cheated of even the smallest amount of money.

Our county has been the recipient of a grant to computerize information so that it can be obtained as needed. If information is desired on a previous trial of a defendant, it is scarcely encouraging to know that the facts can be found in a file at the county warehouse several miles away. Computerized information is essential.

We received another grant from LEAA which went exclusively toward the printing of a booklet for school children on Texas Criminal law and procedure. Classroom sets of these booklets were distributed in all the schools in the county. Since they were written at a secondary school level, they have been overwhelmingly popular with adults as well, and we have distributed almost 20,000 copies of this booklet to adults who have seen the booklet and requested copies. I only wish that I had the funds to print even more copies.

Our latest grant is one which truly excites me. Ours was the first of several District Attorney's offices in the country to receive a discretionary grant from LEAA to zero in on career criminals. I am grateful to the President, the Justice Department and LEAA for their leadership in tailoring this concept to our local needs and priorities. Our Career Criminal Project has been operational since July 1. Felonies come in all shapes and sizes. Some persons are a far greater threat to society than others. Up to this time, all have been handled the same, in order. Too often in our seriously overcrowded system, the career criminal who knew the ropes managed to slip through and avoid punishment all together. In this new program, we are screening every new charge brought in, examining the previous record in detail, and considering the nature of the present crime. If the crime is serious and the record of the accused suggests that he is dangerous to society, he is admitted to our Career Criminal Program and given a closely monitored personal escort through the system. Most crimes in this country are committed by the repeat offenders; many, by persons who are out on bail while waiting trial on other charges. We are zeroing in on these persons and closing the loopholes for their escape. I am very optimistic that statistically this should make a dramatic impact on the crime rate, and from a practical standpoint, it should make our streets safer.

These are some of the benefits we have already derived from LEAA funds, but needs are forever cropping up and we are hoping now to get money for three "annex" courts. Our jail is pathetically overcrowded, with human beings packed in together, many with no bed to sleep on. Over half the people in the jail are there because they are waiting trial. We would like to have the money for courts which would give priority to cases of persons in jail. These people deserve to have their cases heard as quickly as possible rather than waiting the five months which is now the average delay.

CONCLUSION

Perhaps you see the Law Enforcement Assistance Administration from the top, in terms of huge sums of money expended on projects with complicated bureaucratic names. I am certainly not familiar with all LEAA projects, but

as a prosecutor with a tough challenge, I see LEAA as the type of agency that lets me keep my independence and local identity, but assists significantly in progressive programs that will help reduce crime. The most creative yet practical things that I have been able to do in recent years have been due directly to LEAA grants.

Gentlemen, my only criticism of LEAA funding is that it has not gone far enough with the courts and prosecution functions. But, this is not the fault of those State councils that need to reassess their priorities. Even so, I like the block grant approach. Revenue Sharing will not be used, in my opinion, for criminal justice to any great degree. I have a deep fear of any more massive bureaucratic agencies in D.C. telling me how to respond to the people of Harris County—even if they tie money at the end of their poles. But I like the LEAA approach—that is, money specified for criminal justice without imposing further stipulations on local government. All in all, LEAA should stay in business, to help assist the prosecutor get to that place of professionalism and resources needed to accomplish his responsibility, and to help solve the number one internal problem in the United States today—crime.

Mr. VANCE. First of all, I want to express my appreciation for this opportunity. I know that I have appeared and spoken with both of you gentlemen on the committee on various law enforcement criminal justice issues in the past, and I know the delicate decisions with which you are laboring under here to make concerning LEAA and the specifics of LEAA, and I certainly appreciate your grasp of the situation and your sincerity in trying to solve these problems.

I think that Senator Kennedy put it rather eloquently in stating that crime was primarily an urban problem, and that we do need local solutions. I know that both of you certainly agree with that approach.

I think that Senator Kennedy put it rather eloquently in stating that crime was primarily an urban problem, and that we do need local solutions. I know that both of you certainly agree with that approach.

I came here with some degree of apprehension, in that talking to fellow prosecutors, talking to judges and people around the country, I thought perhaps the issue involved concerning LEAA might be either to go to strictly a revenue sharing plan—and I see that certainly the mayors and the ones that represent the local units of government have certainly admitted that the LEAA approaches—the general concept of the LEAA is the one that perhaps should be taken.

Also, I have some great fear about going to some Federal bureaucracy to set up standards for everybody in every State in every local jurisdiction, and I certainly hope and am relieved to see that the discussions generally center upon how LEAA funds will be managed and distributed, as opposed to going to the concept of federalism, or else going to revenue sharing, in which I fear that too much money would go into roads and bridges and other things not related to criminal justice.

In hearing the remarks of the mayors of the cities, whom I have tremendous respect for, the three gentlemen that appeared, I would like to make a comment in that general area. Senator Hruska referred to this, perhaps, as the big city approach, and certainly we recognize the fact that the big cities have problems, and being the district attorney from a jurisdiction of a little over 2 million, that includes Houston. I am certainly very much aware of this problem.

But if we were to take apart, and we were to dissect the responsibilities that the various units of government have, I think we might

come to a slightly different conclusion concerning priorities. If we were to take the juvenile offender who is arrested, or the adult offender who is arrested on the street, well, in my jurisdiction, which I think is fairly typical, maybe 1.3 million people out of 2.2 million or something in that area, the chances are, would be in the city of Houston, and so the arrest would be made by a city employee, a Houston Police Department police officer. But there is about a one-third chance that the arrest might be made by some other officer of some other surrounding city, or the sheriff's people out in the country, or even in the city of Houston by someone working for the State or Federal Government, enforcing the drug laws, or some other type of law. So at this point, you do have the city involved, in that the police officer is making the arrest.

Now, we have heard—and I heard Senator Kennedy say—that too much hardware—and certainly the police, I think, have gotten their share of money under LEAA in all of our large cities, so I do not think we are saying that they are not being adequately taken care of. But the next step, after this person is arrested, he would, in most cities the matter would be taken to the district attorney's office, where a decision would have to be made.

A few district attorneys are paid by city government, but by and large this is a State function or a county function. After the screening, if it is a felony, it would go before an examining trial, again, a county or State function, depending on the judiciary there. After that, the case would be presented to a grand jury, again, a county function, probably, or perhaps a State function. After the grand jury, it would fall on a court, generally always a county or a State function, a district court, probably a State system of courts.

At the court area, the person would either be sent to the penitentiary, if he were not acquitted, or else given probation, again, the penal system being primarily a State function; the probation officers with whom he works being a county or probably a State function. Perhaps some cities have these.

So, when we look at the totality of the criminal justice system, we see that we do have so many different units of government that are involved in criminal justice that when we talk about this is an urban problem, and we do need a local solution, I could not agree any more with that. But we must include all of those units of government that are involved in the criminal justice system.

I think for one that LEAA has done a very good job of this, and I was certainly pleased to hear Mayor Wise from Dallas confirm the fact of the cooperation between the city of Dallas and the State planning agency. I have been on our Texas Criminal Justice Council since its inception and have served under three Governors, since it started, and we have a fine committee, just like Dallas. They have the chief of police, they have the district attorney from Dallas County, serve as members of this. The cities are very, very well represented.

And yet there is not one thing we do in the area of increasing police services, that is not going to affect the courts, in terms of more people being incarcerated or the penitentiaries. So there is tremendous need to coordinate this on a statewide basis, as well as your related problems which you have even in your area council of governments and on your regional basis.

So, when I hear—I think the cities need the help—but when I hear the argument, we have 20 percent of the crime problem in the State, and our city only gets 10 percent of the money, or whatever it may be, and you look at the services that the cities are required to provide, the criminal justice and the services that the counties and the State must provide, then sometimes the cities have not been left out all that much.

So I would like to address my comments to some of the programs that have affected the prosecutors and the courts directly, that I think are extremely important, and why I think that some of these other approaches, other than LEAA, would not work.

Generally speaking, and I am going to talk about only programs which I am personally familiar with which affect my office as local prosecutor with the responsibility of trying cases there. I think a tremendous amount has been done through LEAA through assistance not from staff so much at LEAA saying you prosecutors ought to go out here and do this and that, but through the National District Attorneys Association, through our established association. They have funded projects which have allowed us to go into areas that we have great need.

For example, take the training field. By and large, prosecutors are not trained properly. They get out of law school, and unlike people that perhaps go into police work, or judicial work, or even probation work, the typical person goes into the prosecutor's office for 2 or 3 years as a training ground, a postgraduate student. There is a great need for training here, and we have met this need with the help of LEAA, that would allow persons to attend conferences, the publications, the bread and butter tools that you need.

The National College of District Attorneys, for example, received over \$300,000 per year from the LEAA. The National College, as you know, is sponsored by the American Bar Association, as well as the National District Attorney's Association, and the American College of Trial Lawyers. Now, this is an example of where there is funding for the National College of District Attorneys that has an annual budget of around \$600,000 a year. But I doubt if more money were given to any of our local units of government, by way of revenue sharing, or anything else, that they would pick up their proportion of the tab to train people as they should be trained, which the National College has done a magnificent job of.

Another area that we have gotten into nationally is the management grant. I had 8 years experience as assistant district attorney before I became district attorney about 10 years ago. I knew nothing about managing a large law office, and took over an office one day of some 55 attorneys.

We have a management group that goes around from city to city to provide management services to help set up the systems, to provide management services to prosecutors' offices. We have been involved in law student clerk programs. We have had 100 law clerks through LEAA grants. So I think there is a need for these types of grants that support us nationally, and let us exchange ideas.

Some of the discretionary grants, I think, have been—that have come out nationally, even though I think the percentage of money that goes into this should not either be increased or decreased, it does

give the opportunity to do things on a local scene, but yet some national program where we can take advantage of these.

The career criminal program, one of the latest things to come out—our city was one of the first two recipients. There are about 10 cities in this now. And this gave us the manpower, quite frankly, to deal with the repeat offenders. We started this program on July 1. Right now, we have some 78 people in the program.

Typical of a person that would be in this program would be a man who had been to the pen for one or two occasions. He was perhaps out on bail for armed robbery, and he goes in with a sawed-off shotgun or commits a very aggravated armed robbery, and because of the manpower and the resources that we have had to deal with these cases, unlike some 20,000 felons—we will handle 20,000 felonies this year—an average felony prosecutor—we have 36 of our prosecutors handle felony cases—average annual caseload for felony prosecutor is 500 cases. We have had four district attorneys dealing with these career criminals.

As a result of some 78 people in that program and that personal attention we have been able to give and bring to the judges' attention about these persons, only four people have been freed on bail. There have been five dispositions thus far of, like, 40 years; three for 30 years, I believe; and one for 20 years. And these are the kind of people that are just going to be out committing one crime after another. This program cannot help but work, in my opinion.

Another discretionary—

Senator HRUSKA. Mr. Vance—

Mr. VANCE. Yes, sir.

Senator HRUSKA. I wonder if you would yield for a question? We are laboring under some time limitations, as the chairman has indicated.

Mr. Chairman, I have read this statement. I read it carefully this morning, shortly after breakfast, and I am very impressed with it. I am wondering, however—those examples that you give, they are corroborated in the printed report you made of your association. I wonder if we could proceed, inasmuch as we will follow those examples, could we proceed to a summarization of your statement, so we can accommodate some of the other witnesses?

Would that be agreeable, Mr. Chairman?

Senator McCLELLAN. We are trying to accommodate the witnesses. It is not a matter of trying to shut you off or anything. You will have your full statement in the record.

Senator HRUSKA. I might say further, Mr. Vance, I shared my enthusiasm about your statement with Senator Tower of Texas, and he said he wants to read it, and from what I have told him, he wants to put it in the Congressional Record as an example of one of the outstanding performances and achievements of LEAA in a field that is not often thought of, the prosecutorial field.

So we will consider it in detail, but we do have these time limitations.

Senator McCLELLAN. If I may say, as an old ex-prosecutor, I can read your statement with some sympathy and understanding.

Mr. VANCE. Senator McClellan, I am very well aware of your efforts in Senate bill 1.

Senator McCLELLAN. Your statement is not one that is going to be ignored.

Mr. VANCE. Thank you.

I do think that prosecutors, by and large, are coming out of the woods—that is the only way I would summarize it. We have had too many part-time prosecutors and not enough full-time prosecutors.

We have not been able to keep the prosecutors we should, and in the last few years I have seen an evolution here, largely thanks to LEAA for the funds they have given us. They have brought us up, not to where we should be, but I think we are making great progress. And I think sometimes, in the hue and cry for law and order, all people think about is more police officers when really, they have to consider the entire criminal justice system, and our courts and our prosecutors' office.

I have spent 5 days already in planning, with out State planning agency, as a member of that commission, for the next year's plan. A tremendous amount of planning goes on there, and I think our State council, if we can get a grant through in about 60 days—the people know what they are doing on the thing, it is a priority item. And I am just glad to see that—I just hope LEAA gets a long-range chance to get set and really perhaps measure the accomplishment of the LEAA on a long-range basis.

Thank you very much for allowing me to appear here today.

Senator McCLELLAN. Thank you, Mr. Vance.

Any questions Senator Hruska?

Senator HRUSKA. No.

Thank you very much. Thank you for coming.

Senator McCLELLAN. We appreciate the representation from your segment of law enforcement agencies here.

Mr. VANCE. Thank you, sir.

Senator McCLELLAN. All right.

Our next witness is Sheriff John Duffy. Would you come along, Sheriff, please, sir.

May the Chair take occasion to inquire if Mr. John L. Clifton is present? Mr. John L. Clifton? He had indicated he wanted to testify, he is listed as one of our witnesses.

Very well, you may proceed Sheriff Duffy. You have a prepared statement.

Mr. DUFFY. Yes, sir.

Senator McCLELLAN. Would you like to insert it in the record and highlight it for us, please, sir?

Mr. DUFFY. Yes, Mr. Chairman.

Senator McCLELLAN. Very well, your prepared statement will be inserted in the record in full at this point. You may proceed.

[The prepared statement of John F. Duffy follows:]

TESTIMONY OF JOHN F. DUFFY, SHERIFF, REPRESENTING THE SAN DIEGO COUNTY SHERIFF'S DEPARTMENT, THE CALIFORNIA STATE SHERIFFS' ASSOCIATION, AND THE CALIFORNIA PEACE OFFICERS' ASSOCIATION

Mr. Chairman, distinguished and honorable members of the committee, I am sincerely grateful for the invitation by you to appear here today and share my views with you regarding the Law Enforcement Assistance Administration; its role, its impact and its future.

Subsequent to receiving your invitation, I have solicited input from other law enforcement administrators in California and have received the authority to represent not only my own office, but also the California State Sheriffs' Association, as its first vice president, as well as the California Peace Officers' Association as its immediate past president. The California State Sheriffs' Association is comprised of the elected sheriffs and their top staff members from all 58 counties in California. The California Peace Officers' Association is composed of over 8,000 members, and its leadership includes sheriffs, police chiefs, the California Highway Patrol Commissioner, the California Attorney General's Director of the Division of Law Enforcement, and other law enforcement administrators.

San Diego County, where I am privileged to serve, is the southern most political subdivision in California, with a population of 1.6 million and an area of 4,200 square miles. There are 13 cities within the County of San Diego; 10 of which maintain their own police departments, while three contract with my office for full law enforcement services.

Along with the normal law enforcement problems which would be expected in any metropolitan county, we have some unique law enforcement problems. San Diego County is experiencing one of the most rapid increases in crime in the entire United States. The California Attorney General recently released a report covering 36 major law enforcement jurisdictions in California. My Department has the dubious distinction of having the fourth highest total increase in crime for the first quarter of this year, as compared to the first quarter of the previous year. This 35 percent increase in major crime is difficult to explain, and I find it personally disturbing.

San Diego County shares a common border with Mexico approximately 80 miles long, and is the scene of many visitors to the county as well as those passing through the county to and from Mexico. San Diego County has been identified by the Drug Enforcement Administration as well as through our own efforts, as a major point in the national and international drug traffic patterns.

As far as my own credentials to appear before you here today, you should be aware that I came up through the ranks of the San Diego Sheriff's Department and have 22½ years of experience in all phases of law enforcement in San Diego County. I have been associated with the Law Enforcement Assistance Administration program since its inception, including serving as a Governor's appointee to the state planning agency, which is known as the California Council on Criminal Justice. I was not reappointed to this position by Governor Brown. I am still a member of the San Diego County Regional Criminal Justice Planning Board. In these roles, I have been afforded the opportunity to review and pass judgment on several hundred proposals, programs and ideas in the California application process. I have also served special task forces for the California Attorney General on various subject matters regarding law enforcement, and spent eight months reviewing the Attorney General's entire law enforcement division operation and making recommendations to him.

My Department has been involved in the grant process and has been awarded almost \$1 million since 1970 in LEAA funds. There are additional grant requests pending which total almost \$700,000. In addressing you here today, much of what I will say concerns the practical side of the relationships as opposed to the theoretical or philosophical intent of the mandated planning requirements. More specifically, I speak of LEAA's impact in terms of its effect upon the ability of local law enforcement to fulfill its responsibility of maintaining a safe community environment in which our citizens can peacefully reside, and hopefully prosper. Even more specifically, I will be speaking to the effect that the Law Enforcement Assistance Administration program has had upon the basic components of any public safety delivery system, the officer on the street; and also the impact that federal funds have had on the recipients of those systems, the residents and visitors of our community.

With respect to the future, I shall address Senate Bill 2212, but I would like to comment briefly on the potential of the Law Enforcement Administration to solve what, if recently published victimization surveys are even remotely accurate, is a crime problem considerably more serious than available statistics convey. Every poll that I know of, whether nationwide or local, identifies crime as the primary concern of our citizens. This, in spite of vastly improved law enforcement capabilities, in spite of vastly improved training programs and technology of law enforcement which has been made available through the existence of the Law Enforcement Assistance Administration. I do not intend

to say that we have made no progress, but that we must candidly admit that we have not made sufficient progress.

During my involvement with LEAA and state and local planning agencies, it has always been overtly obvious to me that considerable time and energy was and continues to be spent to producing a corresponding amount of paper. It is also apparent that the larger departments and agencies with their grant management units and planning and research divisions (many of which were started with federal funds) are getting the lion's share of the LEAA monies. My own department was also caught up in the "go get the grant" syndrome. During the period immediately following the passage of the Crime Control Act, we spent a disproportionate amount of time in developing fundable programs; and now, in retrospect, we may have often had to create problems to which the programs could address themselves. This somewhat unorthodox process was the result of continually changing guidelines on the part of LEAA, as well as the California Council on Criminal Justice. More specifically, identification of "suitable" problems as perceived by someone in Washington or Sacramento for inclusion within the regional annual action plans forced local entities to react to those guidelines in identifying their own local problems. Unfortunately, these plans, once developed, have been difficult to change.

When units of local government either wouldn't or couldn't provide needed manpower, it was financially expedient to submit a grant application, which might be consistent with the annual action plan, but would address itself to a problem which may not have been as critical or as high priority as others. As a result, such things as juvenile diversion officers would be employed when the robbery rate was skyrocketing; or a vehicle theft project was undertaken merely because of a state decision to underwrite such a program through the grant process.

Approximately three months ago, discussion with my staff led me to the conclusion that instead of developing grant requests and pushing them through the state review system, waiting extensive amounts of time as they threaded their way through the bureaucracy, our energies might be more productively spent by improving our own planning capabilities and doing a better job with the resources which we already have. Bluntly put, it was my feeling that LEAA grants and all that it took to get them simply were not worth the effort, particularly since the funds available comprised only a small amount of the budgetary resources of this Department.

Along with changing guidelines has been a constant change of LEAA administrators. There have been five such administrators since the program started. Each executive head brings with him new tactics, new philosophies, new attitudes and new ideas, often in a reactive posture to what is currently the political vogue.

While new approaches may have considerable merit, the administrative changes and shifts in emphasis, which are then interpreted by the state planning agency, discussed and rediscussed by regional planning units and then discussed and rediscussed with local units of government often create a situation where it is impossible to relate these changes to the planning mechanism which had been previously established.

In California, the state planning agency has in the past been a thorn in the side of local practitioners. It is all too obvious that a considerable amount of money intended to reduce crime and improve the administration of criminal justice has been syphoned off in the state's administration of the planning process.

As an example of the bureaucratic process, last year my Department submitted a very small grant application to establish a regional training film library to service all of the law enforcement agencies in the county. The proposal had the unanimous support of all the agencies, the Board of Supervisors and the regional planning board, but when it reached the state level, some staff person made the independent decision that we should use video tape rather than 16mm film, because he felt that was the "state of the art." We were unable to convince the state bureaucracy that video tape was impractical, that films were available, and that this was the appropriate method to pursue as perceived in San Diego County. While I was personally taking the time to attempt to get the Governor's office to approve the project, the life of the money expired, and it was returned to the federal government.

Gentlemen, I suggest that his "supervision" is contradictory to the contention of Congress, which has stated that "Crime is a local problem that must be dealt with by local governments if it is to be controlled effectively."

Recently the Governor of California has reorganized the state planning agency in an attempt to eliminate much of the needless review of locally sanctioned programs. Currently it appears that in one form or another, the 26 local regions of California may be the direct recipients of the state block allocation, with the state acting primarily in an audit role.

Changes such as these now give cause for optimism that local government will be able to deal with their own local problems in a more timely fashion and that they can properly bring the LEAA funds into their own inventory of resources including local funds in attempting to address crime problems.

An important part of the impact in crime control funds on the ability of local law enforcement to cope with crime and to better serve its citizens involves a discussion of the evaluation process. I think the assumption has to be made that if a proponent is capable of developing a sound program in response to a valid, identifiable problem, then he is also capable of measuring the effect of the program on that particular problem. I am not implying that local departments implementing these programs should be in any way exempt from a third party review of their successes and failures, and I contend that the operational auditing function is necessary. I would suggest that one function of any state planning agency should be the projection of technical assistance to the local regions in the development of evaluation components.

One of the problems that we have encountered is convincing those who question the utility of some programs that an operational project may well be effective while not directly impacting the crime rate. As an example, an investigative team may increase arrests and increase convictions for a certain crime, and yet the rate for that crime in the area which they are working may still increase. The effectiveness can still be demonstrated in that the crime rate would have been higher had those arrests not been made. Or, put another way, it is difficult to measure that which does not happen because of a program's existence.

I urge you to support direct revenue sharing to the local units of government as a concept with the purpose limited to that which was identified by Congressional State of Declarations and Purpose in P. L. 90-351 of 1968 as amended, which reads:

"Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the nation and its citizens. To prevent crime and to insure the greater safety of the people, law enforcement efforts must be better coordinated, intensified, and made more effective at all levels of government."

The State of California seems to have made a productive step with its recognition of the planning expertise of regional boards. By emphasizing the regional role in planning there is a "vote of confidence" which may very well pay off in a revitalized and concerted recognition of the systemwide advantages to be gained from integrated planning. This is not to say that we have not already made some progress in this regard. For one of the most noteworthy and significant by-products of the LEAA program has been the establishment of a planning mechanism. Consensus in problem identification is being reached and practitioners are recognizing the extent to which their roles impact upon each other.

The Administrative Bill S2212 is highly supported by me and those I represent. With the emphasis on strengthening the courts, I see a chance that our streets may be rid of serious offenders; with added fiscal support to high crime areas, I see the chance that San Diego may turn the rise in crime around; and with the extension of the legislation through 1981, I see the time, the much needed time, to accomplish my goals and the goals of the administration.

Time does not permit me to address the many aspects of all that you will be considering in the course of your deliberation. I think that Senator Hruska appropriately expressed all of the concerns of all of those who really care when, in talking of our position, he stated, " * * * it is the officials who are most responsive and answerable to the will of the local electorate who are held accountable for policing, adjudication and corrections in our home communities.

Gentlemen, the sheriffs and peace officers of California will continue to be accountable, and with LEAA support, we stand a good chance of winning.

That concludes my prepared testimony. I will be happy to answer your questions.

STATEMENT OF JOHN F. DUFFY, SHERIFF, SAN DIEGO COUNTY
SHERIFF'S DEPARTMENT, SAN DIEGO, CALIF.

Mr. DUFFY. Mr. Chairman, in view of the hour I would like to highlight and emphasize some of the remarks in my prepared testimony, and then perhaps be available for questions.

I am sincerely grateful for the invitation by you to appear here today and share my views with you regarding Law Enforcement Assistance Administration, its impact, its role and its future.

I would just like to state that subsequent to receiving your invitation to appear here, I have solicited input from other law enforcement administrators in the State of California and have received the authority to represent not only my own office, but also the California State Sheriff's Association as its first vice president. In addition to that, I am representing the California Peace Officers' Association, as its immediate past president.

The State Sheriffs' Association represents all of the elected sheriffs and the top staff members of the 58 counties in California. The California Peace Officers' Association, with a membership of over 8,000, has a leadership comprised of sheriffs, chiefs of police, the commissioner of the California Highway Patrol, the California attorney general's director of the Division of Law Enforcement, and other law enforcement administrators.

I would like to make a few comments about San Diego County, where I am privileged to serve as the sheriff. It is the southernmost political jurisdiction, with a population of 1.6 million people, and an area of 4,200 square miles. There are 13 incorporated cities within the county, 10 of which maintain police departments, and 3 of which contract with my office for full law enforcement services.

I might add that my department services almost 1/3 of the county's population, and 90 percent of the geographical area of San Diego County. We have a little over 900 employees, and a budget of approximately \$20 million.

Along with the normal law enforcement problems which would exist in any metropolitan county, San Diego has some unique problems. I have to say that our California attorney general early this year issued a report for the 36 major law enforcement jurisdictions in our State, and my department has the dubious distinction of having the fourth highest total increase in major crime in California. It is a 33-percent increase, and it is difficult to explain, and I find it disturbing.

Another particular problem we have is we share a border with Mexico of approximately 80 miles—mostly barbed wire fence, and mostly in rural areas with little population.

This proximity to Mexico, since we are the first metropolitan county area north of the border in this long rural area, has made San Diego a major point in the national and international drug traffic patterns. We have addressed that problem in San Diego with some assistance from the Law Enforcement Assistance Administration with a completely integrated narcotics task force, with my entire narcotics division, the San Diego Police Department's entire narcotics division, as well as representatives from the Federal Drug Enforcement Admin-

istration attacking the problem in San Diego, which impacts terrifically on the local area.

I am here primarily as a supporter of Senate Bill 2212, but I would like to comment briefly on the potential of the Law Enforcement Assistance Administration to solve what, if the recently published victimization surveys are even remotely accurate, is a crime problem considerably more serious than available statistics convey.

Every poll that I know of, whether nationwide or local, identifies crime as the primary concern of our citizens. This, in spite of vastly improved law enforcement capabilities, in spite of vastly improved training programs and technology of law enforcement which has been made available through the existence of the Law Enforcement Assistance Administration. I do not intend to say that we have made no progress, but that we must candidly admit that we have not made sufficient progress.

We have had some problems, I think, since the inception of LEAA, but I am confident that we are well on our way to correcting these problems, many of which were described by the mayors previously, and by the district attorney who spoke a little earlier.

We have had our own problems in California, but I have to say that they have been primarily a result of changing guidelines within LEAA, and primarily associated with the change of Administrators within LEAA. We have gone through five Administrators since the inception of the program.

While these new Administrators bring new ideas, new philosophies, new talents to the job, however, it also generates changes at the State level, changes in guidelines, down to the local and regional level. And then by the time these are discussed and rediscussed with units of local government, it becomes almost impossible to relate the previous planning mechanism to the new guidelines.

I feel that many of those problems are on their way to being solved. We have had our problems with the State planning agency in California—my written statement contains some of the examples of some of the bureaucratic process that we have had to go through involving supervision by the State planning agency over the regional planning process. And in our area, it is a regional criminal justice planning board comprised of, in my view, the proper elected officials, the proper criminal justice practitioners, as well as concerned citizens. It works very well.

I am sure you are aware that recently the Governor of California has reorganized the State planning agency in an attempt to eliminate much of the needless review of locally sanctioned programs. He has reduced a staff of 229 people in the office of criminal justice planning in California to maybe a dozen or 15 auditors. And the State role, it appears in the future, will be—that the 26 local regions of California may well be pretty much the direct recipients of the State block monies, with the State acting primarily in an audit role.

I would have to take issue with some of the comments the mayors made previously this morning in their representation of the League of Cities and the National Mayors Conference.

In California, at least—I do not know how this works across the country, but I think it works this way in most of the country—the

county level of government is the primary deliverer of services in the criminal justice area.

Municipalities—at least in the Western United States—are generally confined to the provision of the input level, or the policeman on the street. The entire prosecutorial system, and what substance might go to the defense system, the court system in its entirety, both at the lower court and upper court level, and trial courts, the probation system, the correctional system at the local level, the entire criminal justice system except the municipalities who maintain police departments, the county carries the burden. And I think that has been overlooked in perhaps dealing with some larger eastern cities, such as New York where, I do believe the city is the deliverer of most services.

Now the changes that have been made in California, and the changes that I see suggested in this legislation at least give cause for optimism that local government will be able to deal with their own local problems in a more timely fashion. And then, if they can properly bring the LEAA funds into their own inventory of resources, including local funds, in attempting to address crime problems—Senator McClellan earlier stated that there is—or maybe Senator Hruska—a small portion of the LEAA moneys in any criminal justice financial impact.

I would like to suggest that one of the functions of any State planning agency might well be to provide the technical assistance to the local regions in the development of evaluation components. One of the problems we have encountered in convincing those who question the utility of some programs is that an operational project may well be effective while not directly impacting the crime rate.

As an example, an investigative team may increase arrests and increase convictions for a certain crime, and yet the rate for that crime in the area in which they are working may still increase. The effectiveness can still be demonstrated in that the crime rate would have been higher had those arrests not been made.

Or, to put it another way, it is difficult to measure that which does not happen because of a program's existence.

I would urge you to continue to support the direct revenue sharing concept to the local units of government in the form of discretionary grants that are now available—and I did not hear the mayors talk about that, but many cities, primarily large cities and large county governments are the prime recipients of discretionary moneys. Discretionary moneys are almost impossible for small counties and small units of government to obtain because they do not have the mechanism to deal with the Federal machinery, or bureaucracy, if that is the right word.

One of the most noteworthy byproducts, in my opinion, of LEAA has been establishment of a planning mechanism which we now have. There is consensus being reached in problem identification—at least in California—at the local level. The practitioners are beginning to recognize the impact that they have upon each other, where they do not operate any longer in a vacuum.

The administration bill, S. 2212, is highly supported by me and those organizations that I represent. I think with the emphasis on strengthening the courts, I see a chance that our streets may be rid

of serious offenders. With added fiscal support to high crime areas, I see a chance that San Diego may turn the rise in crime around. And with the extension of legislation through 1981, I see the much-needed time to accomplish my goals, and the goals of my administration.

I think, gentlemen, the sheriffs and the peace officers of California will continue to be accountable, and with the LEAA support, we have developed planning capability, we have developed a coordination with each other, and we stand a good chance of winning.

With that, I will conclude my prepared remarks.

Senator McCLELLAN. Thank you very much, sir.

I note that you feel that the reorganization of the State planning agency in California is going to be a great improvement.

Mr. DUFFY. Yes, sir, I do.

Our problems in California really have not been primarily with the Federal Government; they have been, rather, with the State planning agency. That is the huge bureaucratic staff that—

Senator McCLELLAN. Let me ask you another question. I failed to ask the other witnesses, the mayors—I should have asked them—and that is whether this law should be extended for 5 years or 2 years.

Mr. DUFFY. I would vote 5 years.

Senator McCLELLAN. You would go for five?

Mr. DUFFY. I think Senator Hruska mentioned it.

Senator McCLELLAN. There has been some criticism of the agency, of course. There are not many agencies of government, including the Congress, that cannot be criticized with some justification. But do you feel that this agency of Government is needed, that it should not be abolished, that we are really getting something of considerable value from the money it expended?

Mr. DUFFY. I absolutely do.

I also am an elected public official, and I receive criticism, some of which I sometimes feel is unwarranted—perhaps it is warranted at the time. But you must remember that LEAA is new. We have done something in 7 years that I think the Federal Government can be proud of.

If you have done nothing else, I must emphasize again you have brought the practitioners together to plan together.

Senator McCLELLAN. Thank you very much.

We have a signal of a rollcall vote.

Senator Hruska?

Senator HRUSKA. I just want to thank the sheriff, Mr. Chairman, for coming here. I know of the work of the California Peace Officers' Association. I have visited with them a couple or three times, and also, the National Association of Sheriffs. They have done notable work in trying to advance this sector of law enforcement, and it is a very important one.

Thank you for coming.

Mr. DUFFY. Thank you, Senator.

Senator McCLELLAN. The committee will stand in recess, for further hearings, until October 22.

[Whereupon, at 12:45 p.m., the subcommittee recessed, to reconvene at 10 a.m., Wednesday, October 22, 1975.]

AMENDMENTS TO TITLE I (LEAA) OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

WEDNESDAY, OCTOBER 22, 1975

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES,
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:20 a.m., in room 2228, Dirksen Senate Office Building, Senator Edward M. Kennedy, presiding.

Present: Senators Kennedy (presiding), Hruska and Thurmond.

Also present: Paul C. Summitt, chief counsel;; Dennis C. Thelen, deputy chief counsel; and Mabel A. Downey, clerk.

Senator KENNEDY. The committee will come to order. Today the Senate Subcommittee on Criminal Laws and Procedures continues its hearings into the proposed 5 year reauthorization of the LEAA program. We are indeed fortunate to have with us today as our first of five witnesses, the distinguished Chief Justice of the Supreme Court of the State of Alabama, Howell T. Heflin. Chief Justice Heflin is known throughout the Nation not only as an accomplished jurist, but also as an articulate spokesman for the vital cause of improving court efficiency and management. No one knows better than he the importance of streamlining the court system and the administration of justice if we are to make a dent in our soaring crime rate. I have recently spoken out on the need for LEAA to shift its priorities and concentrate on the courts and court-related problems. I am sure that Chief Justice Heflin will provide valuable insight into this whole problem.

Senator Hruska?

Senator HRUSKA. I have no opening statement, Mr. Chairman, but I would like to note that it is heartening to see this awakening interest in the criminal justice system on the part of the judiciary. Chief Justice White of my own State has been active in this work and has spoken highly of our first witness this morning. I, too, would like to welcome Chief Justice Heflin.

Senator KENNEDY. Justice Heflin, I had a chance last evening to review your testimony and we look forward to hearing from you. I might add that your entire statement will be printed in the record, and you may proceed as you wish.

**STATEMENT OF CHIEF JUSTICE HOWELL HEFLIN, ALABAMA
CHAIRMAN, FEDERAL FUNDING COMMITTEE OF CONFERENCE OF
CHIEF JUSTICES**

Justice HEFLIN. Thank you, Senator Kennedy and Senator Hruska. I appreciate the opportunity to be here. We deeply appreciate your interest and are glad to count you on the side of law and order.

It is my pleasure and honor to be the official spokesman for the Conference of Chief Justices at this hearing. The Conference of Chief Justices is a national organization composed of the highest judicial officers of the States and certain territorial governments.

For the past 3 years the Conference of Chief Justices has unanimously adopted resolutions expressing dissatisfaction with the operation of the LEAA program. The resolutions adopted at the annual meetings in 1974 and 19975 call for congressional changes in the LEAA Act. The American Bar Association, the National Conference of State Trial Judges and the National Conference of State Court Administrators have adopted similar resolutions.

While the chief justices are critical of the LEAA program as it relates to courts, they would like to make it clear that they appreciate the cooperative attitude and attention Mr. Richard Velde, the Administrator of the Law Enforcement Assistance Administration, has shown to court problems. In fact, after his appearance at the 1974 meeting of the chief justices, Mr. Velde commissioned a study of the problems of courts with the LEAA program to be made under the aegis of American University. The chairman of this study commission was John F. X. Irving, the former State director of the Illinois Law Enforcement Planning Agency and now dean of the law school at Seaton Hall University. Among the findings contained in the report of this Irving commission, which was published in March of this year [1975], are the following:

Planning by state planning agencies for the judicial branch is uneven in commitment and scope and raises constitutional problems caused by the SPA's responsibility to plan comprehensively for the total system. Courts have had the lowest level of participation in the LEAA support program of the three criminal justice system components.

Concern about erosion of the independent and equal status of the judiciary as an equal branch of Government under the present LEAA administrative structure is reaching crisis proportions.

Court planning in most jurisdictions is ill developed. Even where court systems have a planning capability, it is of recent origin and is generally embryonic in nature.

A primary need for court improvement is at the trial and municipal court levels, yet LEAA money is only trickling down to those courts which have the most serious day to day problems of case management. * * *

The state planning agencies have tended to superimpose their programming concepts on the state court systems. State planning agencies tend to ignore the courts or to give them a subordinate role in the LEAA program.

There is little court representation on the state and regional planning agency boards. Where judges are appointed to such boards, they are often not deemed to be official representatives of the court system but are selected by the Governor without consultation with the relevant court leadership. * * *

Almost universally, the study team found that judges and other members of the court community appeared to have deep resentment at so-called "interference" by those outside (whether the SPA or LEAA) dictating what is good for the courts. * * *

Universally, courts have received considerably less financial support than LEAA has claimed. In Georgia, for example, 13 percent of its FY 72 block grant funds were attributed to the "courts." The percentage actually spent on the courts, as narrowly defined, was 2.2 per cent. These funds are obviously inequitable and insufficient. Much of this discrepancy arises because LEAA counts grants to prosecution, defense, information systems, and other programs as grants to the courts.

From the national office of LEAA down to the lowest local planning board, there is a disturbing shortage of court specialists and few devote full-time to this responsibility. * * * *

The above-quoted findings selected from the report of the study commissioned by LEAA itself illustrates what State court systems have experienced with the LEAA program. While I am not in complete agreement with many of the phases of the report of the Irving commission, nevertheless, the above-quoted sections point out many of the shortcomings of the LEAA program. Time doesn't permit me to discuss all the ills of the LEAA program so I will limit my discussion to three problem areas.

The first problem area that I will mention is "politics." While it is not unusual for participants in the executive and legislative branches of state government to engage in activities known as "log-rolling," "back-scratching," "name-calling," "knife-back-stabbing," "mud-slinging," "political intimidation" and "compromise" while involved in political arenas and particularly in the appropriation pit of state government, the judiciary should at all times be removed and protected from such political activities. However, the LEAA program is organized in such a manner that state court systems and judges are placed in an arena of political competition for federal funds with numerous agencies of the executive branch of state government, including police, corrections, probation, prison and prosecutorial agencies.

To compound this dilemma, the decisionmaking power as to the granting of such funds in this pit of competition is subject to the complete control of an executive body.

In other words, the umpires and the opposing, competing players are all on the same team. Such a system affords an opportunity for the exertion of political pressures on judges at every level and creates an atmosphere conducive to political entanglements. To state it mildly, the LEAA program increases the potential for compromising the integrity, the impartiality and the independence of the courts.

Next, LEAA is bringing about an erosion of the separate and independent doctrine of government. This argument has been voiced to LEAA officials by judges many times, but it seems to have fallen on deaf ears. Hopefully, it will not fall on deaf ears before this committee.

Each State in the Union has language in its constitution, which from the beginning of statehood provides for the separation of powers. The LEAA program as presently structured by Congress and administered within the borders of the State by an executive agency violates this constitutional doctrine.

Perhaps I can make this point clearer and more emphatic by asking you three questions first.

Is there anyone on this committee who feels that under our constitutional concept of the separation of powers the President of the

United States or his appointed executive agents have got the right to tell the Federal judiciary, including the Supreme Court of the United States, either you plan, organize and operate your courts in accordance with our wishes and plans or else you will receive the amount of money that we want you to receive?

I wonder, if that had been true, what the Watergate tapes decision of the United States Supreme Court might have been.

The second question is this: Is there anyone in this committee who believes or thinks that under our constitutional concept of separation of powers that the Governor of any State or his agents has got the right to tell the judiciary of a State, either you plan, organize and operate your courts in accordance with our wishes and plans, or else you will get no funds?

And the last question strikes at the very heart of the LEAA program.

Is there anyone on this committee who feels that under our constitutional concept of separation of powers the Governor of any State or his appointed executive agents has got the right to tell the judiciary of a State, either you plan, organize and operate in accordance with our wishes and plans, or else you will receive only the LEAA funds that we want to give you.

I do not believe there is any member of this committee who can conscientiously answer any one of these three questions affirmatively. But Congress, by its LEAA program, has affirmatively provided a program through which the separation of powers doctrine of each State has been violated and will continue to be violated unless the program is changed.

The next problem area is the "short-changing" of courts in regard to the LEAA funding.

There seems to be no doubt that courts have received a disproportionately small amount of funds when compared—

Senator KENNEDY. Judge, your view is that a disproportionate amount of funds to the courts frequently takes place in many instances; do I understand you correctly?

Mr. HEFLIN. Yes.

Senator KENNEDY. Are you going to elaborate on how and why that occurs?

Mr. HEFLIN. Well, the Governor, in most of the States, appoints the crime commission or the state planning agency. We do not have as much problems with LEAA nationally as we do at the State level, and sometimes it is not necessarily the staff people. It is the people who belong to various boards.

There is the instance in a State where a board member wanted for his traffic court an expensive mag card typewriter. There was a requirement at that time that the chief justice or the court administrator had to approve court grants. That board member approached the court administrator saying that, you don't approve this application, I am going to vote against everything you request.

Now, that is the type of what I would call political intimidation. You put into a pit of competition with board members that have litigation in courts [it is common knowledge that Governors frequently are involved in litigation]. Whether the courage of the judges is sufficient to withstand any judicial compromise is not the point. I

think the point is that SPA's are organized in such a manner that they have been the potential for bringing about compromising judicial decision. These types of things are what the judges have deep feelings about, and they desire to be protected from.

While it is true that courts seek funds from your legislature, nevertheless under the concept of the separation of powers courts do not and should not seek funds from the executive branch of government. I think that this is quite serious.

Senator KENNEDY. As I understand, you speak for all the chief justices on this particular point.

Mr. HEFLIN. I am the official spokesman and chairman of the committee. I am also vice chairman of the conference. But the resolutions that the conference has adopted expressed this, and they were adopted unanimously. I am sure that some States haven't experienced the problems badly as others, but no chief justice has ever voted against these resolutions.

Senator KENNEDY. You are going to make some recommendations on how we can avoid that kind of a conflict?

Good; we will proceed.

Mr. HEFLIN. The next problem area that I want to direct my attention to is the short-changing of the courts under the LEAA program. I think, when we analyze the LEAA funding, we find there are two varying definitions of the word "courts." One is a very broad definition which LEAA uses. This includes criminal law reform, probation, prosecution, defense, and other functions. The other definition of courts is what judges usually think of, the programs that fall under the jurisdiction of the judicial branch alone and which are funded in State judicial budgets, in other words, the adjudicatory phase, as opposed to a broad phase.

So whenever you hear the category courts used, there are two definitions. One is LEAA's broad definition of courts, and the other is the limited definition which refers to the judicial function only. So it is wise, whenever the term is used in regard to statistics, to ascertain which category is being referred to.

A debate has been going on for several years as to how much LEAA has placed in the second category; that is, in the pure courts. LEAA published information in the latter part of 1973 that reflected, according to its computerized grant management information system, which is referred to as GMIS, that courts in the purer sense received 5.12 percent of LEAA moneys in fiscal year 1971, and that purely courts declined to 3.61 percent in the fiscal year 1973.

However, when confronted with the smallness of these figures, the agency took another look, and its computer came out with a figure that stated that about 17 percent was spent on purely court projects. Analysis of the computer printouts revealed that two-thirds of these purely court projects turned out to be alternatives to insitutionalization, community-based detention and other programs that were really nonjudicial.

LEAA stopped using this after they were convinced that this figure was unreliable. It is now my understanding that LEAA contends that the correct figure for current LEAA spending for courts is 16 percent but candidly admits that this includes nonjudicial functions and that the applicable category is the broad definition one.

Frankly, it appears that under the present method of keeping statistics, it is impossible for LEAA to give an accurate figure as to the percentage of LEAA funds that go to courts alone. It is the judgment of the chief justices and the State court administrators that the judicial branch is receiving about 6 percent. Some States receive more and some States less.

Senator KENNEDY. That is really extraordinary, Mr. Chief Justice. You are probably aware that the figures you mentioned here, 16 percent allocated to the courts, were the figures that were given us by Mr. Velde in our opening days of hearings on the review of LEAA. This was at a time when the Attorney General, in an exchange with myself concerning measures that could be taken to put the heaviest emphasis on court support and court reform.

What you are pointing out is that even after the Attorney General himself mentioned the value of court as a very promising way to have an impact on criminal justice in this country, and on the war on crime, these figures are not even 16 percent, but are closer to 6 percent. I think that is a most distressing development.

It is very helpful to have this kind of a breakdown and evaluation from the vantage point of those who are involved in the court system itself.

I must say that I think such a paltry amount is woefully inadequate. I am glad to discuss the distinction between what is actually being spent and what LEAA is claiming is being expended in the area of court reform and court support. I think you have been very helpful.

Mr. HEFLIN. I think Mr. Velde is trying to be very honest about it. He realizes that computers bring out all sorts of things that are not really court in nature. He has just recently commissioned a study by the American University to find out for the past 4 fiscal years actually what each State has received of purely court's money and, as a result, to be able to give more precise methods to their computer as to how they can account for these figures in the future.

One of the findings in the Irving commission's report, I think this points it out, they pointed out that the figures show that Georgia was receiving 13 percent for courts in a year, a certain year, but actually the commission found that they only received 2.2 percent. So I think that points out the differences in this definition.

Now, the chief justices and the court administrators are convinced that both courts in the judicial definition sense and courts in the broad, LEAA definition sense, have received inadequate and disproportionate funding throughout LEAA's history, and that perhaps there have been reasons for this short-changing. But it seems to be inescapable that executive control at the State level is the major reason. There are other reasons that originate in judges themselves—frankly, there are just some judges that do not want to become involved or embroiled in the politics of an executive agency.

The Irving commission's conclusion of the effect of the LEAA program upon State courts contained these words:

By and large, these courts have not received the interest, technical assistance, or financial support from LEAA that are absolutely essential for sound progress. In fact, since the initiation of the Federal war on crime in 1968, many State courts have fallen further and further behind in their ability to relate to rising crime rates and to the more sophisticated police, prosecutors, defenders, and correctional personnel, who have received generous support.

However, since LEAA has contributed directly or indirectly to some improvement in the judicial system of almost every State and to marked improvement in a few States, such as in my State of Alabama. I am not in complete agreement with the last quoted excerpt from the Irving commission's report.

Senator KENNEDY. Why it is important, to the whole system of justice, and particularly in the area of street crime, which is the number one concern of people in many parts of the country, why is this important?

Why is this an important aspect of justice in meeting the problem of crime?

You talked very eloquently and persuasively about the fact that court reform has not had the priority. And you have given us information about what is actually being allocated in this particular area. Why is this important in Alabama or in other parts of the country, that the court systems be given the kind of resources needed to do the job?

Mr. HEFLIN. Well, there are many reasons. I think it is important—first, I think it is the traditional concept of the Anglo-American system of justice, and it is built on the concept that a person that a person that is guilty, that sure and swift punishment and sure and swift disposition of the case can be the greatest deterrent to crime.

Now, the State court system, which handles 95 percent of all of the criminal prosecution and of the litigations in this country has gotten further and further behind, with a few exceptions. We have made remarkable progress in my own home state, because LEAA has helped. We have also had the cooperation of the State legislature in regard to that.

But if we are going to be able to follow the concept that a guilty person is to receive punishment, and punishment is to be sure and swift, the judicial system cannot be effective if there are long delays from the time that a person is arrested until the trial court finds him guilty; likewise, if there are long delays in the appellate process. So I think it is most important, in the battle against crime, for the state judicial system to operate efficiently and expeditiously.

Some people have described the criminal justice system as a funnel. The police places the cases in the funnel. The neck of the funnel is the court system, and all cases have to be processed through the neck of the funnel. If the neck of the funnel is clogged, then it seriously affects the other parts of the criminal justice system.

Senator KENNEDY. Well, I suppose that the other side of the coin is that you are not only punishing the guilty but freeing the innocent within an expeditious period of time.

Mr. HEFLIN. Certainly, that is important. The protection of the constitutional rights of the accused.

Senator KENNEDY. So for both reasons both the prosecution of the guilty and the release of those that are innocent—you have reasons for expediting the criminal process.

Mr. HEFLIN. Well, a person that is innocent wants the cloud removed as quickly as possible.

Senator KENNEDY. Now, tied to this need for swift punishment could you at this point give me your best judgment about the wisdom

or the fairness of using a mandatory sentencing procedure for certain specific crimes?

Mr. HEFLIN. I think you are getting me off a little bit into the legislative function rather than sticking to my field of the judiciary, but it does deal with the overall system of justice.

Senator KENNEDY. We are interested in your view.

Mr. HEFLIN. For certain types of offenses, mandatory offenses are in keeping with precedents that have been followed in the past. In past years, in some states, if there is an outbreak of a particular type of crime, some states have had a policy of no probation in regard to extremely troublesome offenses, motivated by the idea of stopping those offenses. Certainly mandatory sentences for certain selected offenses does not violate this concept of deterrence.

There may be exceptions that would occur, but you have to weigh and balance. Frankly, I am a believer that after a criminal has been convicted of a certain number of crimes, he becomes a professional criminal. Mandatory sentence for professional criminals is desirable.

I would like to direct attention for just a few moments to the idea of what can be done to solve this problem. The position of the chief justice is firm that it is impossible to bring about the immediate improvement in and to the court systems of the States under the present statutes, and that, therefore, changes in the legislation are necessary.

Two approaches to legislative change were considered by the Conference of Chief Justices, of the conference of State Court Administrators. One was to propose to Congress a new Congressional Act which would create a new administrative agency completely disassociated from LEAA.

The second approach was to recommend an amendment to the LEAA Act which would provide perceptive treatment of the judicial system, and which would be referred to as part F. This amendment would be similar to the amendments which created special parts of the act for corrections and juvenile justice.

The alternative was made to follow the second approach; that was because we felt Congress would dislike the idea of the creation of a new bureaucratic agency. It was felt that Congress would not be receptive to a new, separate program, when it would be possible for the program to be administered within the organizational framework of LEAA.

And, finally, since Congress had given priority to corrections and juvenile justice through amendments to the basic act, it was felt that Congress would be more receptive to a similar approach for courts.

So the Conference of Chief Justices urges Congress to adopt the proposed amendment to the Omnibus Crime Control and Safe Streets Act which was drafted by the Conference and introduced by Congressman Peter Rodino at the request of the Conference of Chief Justices, which is now referred to as H.R. 8967.

I have attached to my testimony an explanation of this act, a copy of the act, and a technical explanation of the act. We urge Congress to adopt this. If, however, we are in error, we would feel that there are alternatives. If the approach to be followed is by a separate act, or by amendments to the basic act, nevertheless there are certain guidelines and principles that should be followed. I have outlined

those guidelines and principles in our prepared statement that I filed today. We have listed some 12. Today in my oral statement I would like to give particular attention to only one.

This is the one pertaining to the National Center for State Courts. In March of 1971, there was a National Conference of the Judiciary in Williamsburg, where elements from the State and judicial branches came together. Chief Justice Warren Burger recommended to that group that there be created a National Center for State Courts which would have responsibility somewhat similar to those of the Federal Judicial Center.

Such an organization is now in existence, and it is the country's only comprehensive national court organization. It serves as a research agency, training agency and as a clearinghouse. Hopefully the States will assume the financing of this organization as they have the National Conference of Governors and the National Conference of State Legislators, but it is apparent it will take some time before State legislatures will approve such funding.

This organization is presently almost entirely dependent upon LEAA funding and programs. The Conference of Chief Justices earnestly recommends to Congress that provision be made for the funding of this organization, free of any Federal control, for a short period of years in order that this organization can effectively function until the States can be convinced to assume the funding responsibility.

In conclusion, I would like to take this opportunity to express my own personal hope and desire that the LEAA program be continued. The LEAA program has had a tremendous impact on the criminal justice system in each of the States, providing leadership, planning and funding for the States to undertake programs that were sorely neglected by the States before the passage of the Crime Control Act.

If the LEAA program were terminated today, it would, nevertheless, leave a legacy in the many improvements that have occurred in the law enforcement, courts and corrections. Hopefully Congress will not terminate this program, but improve it.

With improvement in the Congressional Act, the program can be much more effective. I think my presentation would be incomplete if I did not praise the work of Mr. Richard Velde, the Administrator of LEAA. He impresses me as being most concerned about the problems in the criminal justice field, including court problems, and willing at all times to listen. I find Mr. Velde to be extremely objective and attentive to the concern voiced by the Conference of Chief Justices.

I realize that we are adversaries before Congress, since he opposes the changes in the legislation which the Conference of Chief Justices proposed, but nevertheless, I feel I should make known to Congress that he has been the most cooperative Administrator with whom court organizations have dealt.

I feel toward Mr. Velde as I do toward an attorney in my own home area of Alabama. It seems like everytime I was involved in a law suit before I became a judge, I found this lawyer at the opposing table. We would both strive hard to win, and regardless of the heat generated by the courtroom battle, I never lost respect for my opponent, for he was truly a professional. He is a great advocate and a

tough opponent, but above all, he was always a gentleman, and I can say the same about Pete Velde.

It has been a pleasure to be here and present our views, and we hope that Congress will give real consideration to our problems. If you do nothing else, take us out of this pit of competition and recognize that each State does have a separation of powers doctrine.

Thank you very much.

Senator KENNEDY. Thank you very much, Judge Hefflin. This is very powerful testimony, and I think it has given us a good deal of food for thought. I think it is very compelling testimony, and I find myself in wholehearted agreement with you.

Just a few points that I would like to raise with you.

It has been suggested that LEAA ought to tie the amount of moneys that it makes available to the courts to that which is provided by the States themselves. I know that in some States, the courts are not given the kind of priority by the State legislatures which I think many of us believe are essential to an effective system of justice. Do you have any reaction to trying to tie LEAA assistance to State grants?

Mr. HEFLIN. I have heard the argument voiced several times by people who say that LEAA is providing percentagewise a lot of money, and in some instances, maybe providing more money to the States than the State legislatures are providing.

There are several answers to this.

No. 1 is that the intent of the passage of the Crime Control Act of 1961 was, first, a recognition that States were not doing what they should in the criminal justice field; that they were neglecting police, they were neglecting prisons, they were neglecting courts. And the intent was to provide a Federal program by which funds were supplemented, with the idea that this could point out that improvements could take place.

I think another reason is, and I think it can be pointed out in my home State, LEAA money can be the incentive. In my State, as of the last fiscal year, something like \$4 or \$5 million was being appropriated by the State legislature for the State judicial system. In fact, more money was appropriated a couple of years ago in Alabama to the game and fish division of the department of conservation than to the entire State judicial system.

But in 1977, State appropriations will at least triple, and I think as a result of a program that has been helped by LEAA discretionary funds. LEAA provided the incentive. Actually, Mr. Velde selected Alabama as a model State to show other States what can be done by proper court planning.

Instead of some \$4 or \$5 million being appropriated to courts, the Alabama Legislature will be appropriating approximately \$20 million for the operation of its State court system by the year 1977-78.

So you can see there are many reasons why Congress should not attempt to compare the percentage of moneys from State legislatures against LEAA funds.

LEAA, I understand, has made a study that shows that appropriations of all of the States for courts only an average of 1.1 percent of total appropriations. One of the biggest problems in the criminal justice field; that the States have not measured up to their responsi-

bilities, and have neglected the entire criminal justice field including the State court system.

Senator KENNEDY. You refer to the Rodino bill, and I intend to be the sponsor for similar legislation here in the Senate. But as I understand it the thrust of the Rodino bill permits the courts to develop their own kind of program and make a direct appeal to the SPA to get funding on that basis.

Is that not the essence of the approach?

Could you develop it to some extent?

Mr. HEFLIN. It has not only that, but it has this, which is important I think. It requires that there be a multiyear comprehensive plan for court improvement—either a 3- or 5-year plan. Before you actually start receiving grants there must be a multiyear comprehensive court long-range improvement plan prepared by the judicial branch itself, approved by the State planning agency for coordination and comprehensiveness. Then, thereafter, the granting of funds will be a judicial branch determination, but grants must adhere to the long-range multiyear comprehensive plan.

Senator KENNEDY. Does this avoid some of the problems that you have identified that exist in terms of the State planning agency?

Mr. HEFLIN. Yes, sir.

It is designed with the idea of taking the judges out of the arena of competition, and it is designed to recognize the separation of powers doctrine. And it is also designed to give coordination to the overall criminal justice system program of LEAA.

Senator KENNEDY. This is a voluntary program, or is it compulsory?

Mr. HEFLIN. It would be voluntary. A State would have to elect to file its multiyear comprehensive plan.

Senator KENNEDY. That would be done by the members of the judiciary, those who understand the problem best?

Mr. HEFLIN. It would be done within the judicial branch.

Senator KENNEDY. That would, both in terms of short- and long-range goals lay out at least a workable plan.

Is that correct?

Mr. HEFLIN. It is long range, and I think a long-range plan has to be developed if you are going to bring about improvement. You can waste money by just buying robes for judges just as money has been wasted purchasing police cars without any long-range plans. I think all expenditures should be tied into long-range planning.

Senator KENNEDY. This has been part of the problem in the past, has it not, that we have not had a meaningful plan for the courts developed within the States. I think that has been the sad fact and I think the kind of recommendations you made have been extremely helpful.

I want to thank you, Judge. Those five bells mean that we have about 4 or 5 minutes to vote. We will recess now, and we will come back in in just a few minutes.

[The prepared statement of Justice Heflin follows:]

STATEMENT OF CHIEF JUSTICE HOWELL HEFLIN, ALABAMA, CHAIRMAN, FEDERAL FUNDING COMMITTEE OF CONFERENCE OF CHIEF JUSTICES

It is my pleasure and honor to be the official spokesman for the Conference of Chief Justices at this hearing. The Conference of Chief Justices is a national

organization composed of the highest judicial officers of the states and certain territorial governments.

For the past three years the Conference of Chief Justices has unanimously adopted resolutions expressing dissatisfaction with the operation of the LEAA program. The resolutions adopted at the annual meetings in 1974 and 1975 call for congressional changes in the LEAA Act. The American Bar Association, the National Conference of State Trial Judges and the National Conference of State Court Administrators have adopted similar resolutions.

While the chief justices are critical of the LEAA program as it relates to courts, they would like to make it clear that they appreciate the cooperative attitude and attention Mr. Richard Velde, the Administrator of the Law Enforcement Assistance Administration, has shown to court problems. In fact, after his appearance at the 1974 meeting of the chief justices, Mr. Velde commissioned a study of the problems of courts with the LEAA program to be made under the aegis of American University. The chairman of this study commission was John F. X. Irving, the former state director of the Illinois Law Enforcement Planning Agency and now Dean of the Law School at Seaton Hall University. Among the findings contained in the Report of this Irving Commission, which was published in March of this year (1975), are the following:

"Planning by state planning agencies for the judicial branch is uneven in commitment and scope and raises constitutional problems caused by the SPA's responsibility to plan comprehensively for the total system. Courts have had the lowest level of participation in the LEAA support program of the three criminal justice system components."

"Concern about erosion of the independent and equal status of the judiciary as an equal branch of Government under the present LEAA administrative structure is reaching crisis proportions."

"Court planning in most jurisdictions is ill developed. Even where court systems have a planning capability, it is of recent origin and is generally embryonic in nature."

"A primary need for court improvement is at the trial and municipal court levels, yet LEAA money is only trickling down to those courts which have the most serious day to day problems of case management. * * *"

"The state planning agencies have tended to superimpose their programming concepts on the state court systems. State planning agencies tend to ignore the courts or to give them a subordinate role in the LEAA program." "There is little court representation on the state and regional planning agency boards. Where judges are appointed to such boards, they are often not deemed to be official representatives of the court system but are selected by the Governor without consultation with the relevant court leadership. * * *"

"Almost universally, the study team found that judges and other members of the court community appeared to have deep resentment at so-called 'interference' by those outside (whether the SPA or LEAA) dictating what is good for the courts. * * *"

"Universally, courts have received considerably less financial support than LEAA has claimed. In Georgia, for example, 13 percent of its FY 72 block grant funds were attributed to the 'courts.' The percentage actually spent on the courts, as narrowly defined, was 2.2 per cent. These funds are obviously inequitable and insufficient. Much of this discrepancy arises because LEAA counts grants to prosecution, defense, information systems, and other programs as grants to the courts."

"From the national office of LEAA down to the lowest local planning board, there is a disturbing shortage of court specialists and few devote full-time to this responsibility. * * *"

The above-quoted findings selected from the report of the study commissioned by LEAA itself illustrates what state court systems have experienced with the LEAA program. While I am not in complete agreement with many of the phases of the report of the Irving Commission, nevertheless, the above-quoted sections point out many of the short-comings of the LEAA program. Time doesn't permit me to discuss all the ills of the LEAA program so I will limit my discussion to three problem areas.

The first problem area that I will mention is "politics." While it is not unusual for participants in the executive and legislative branches of state government to engage in activities known as "log-rolling," "back-scratching," "name-calling," "knife-back-stabbing," "mud-slinging," "political intimidation" and "compromise" while involved in political arenas and particularly in the

appropriation pit of state government, the judiciary should at all times be removed and protected from such political activities. However, the LEAA program is organized in such a manner that state court systems and judges are placed in an arena of political competition for federal funds with numerous agencies of the executive branch of state government, including police, corrections, probation, prison and prosecutorial agencies. To compound this dilemma the decision-making power as to the granting of LEAA funds in this pit of competition is subject to complete control by an executive body or commission. In other words, the umpires and the opposing competing players are all on the same team. Such a system affords the opportunity for the exertion of political pressures on judges at every level and creates an atmosphere conducive to political entanglements. To state it mildly the LEAA program increases the potential for compromising the integrity, impartiality and independence of the courts.

Next, the LEAA program is bringing about an erosion of the concept that the judiciary is a separate and independent branch of government. This argument has been voiced to LEAA officials by judges many times but it seems to have fallen on deaf ears. Hopefully, it will not fall on deaf ears here for if there are any students of government who should be knowledgeable about the constitutional concept of the separation of powers they should be the members of the Senate and House Judiciary Committees.

Each state in the Union has language in its constitution, which from the very beginning of its statehood has been interpreted to provide for the separation of powers. The LEAA program as presently structured by Congress and administered within the borders of a state by an executive agency violates this constitutional doctrine. Perhaps I can make this point clearer and more emphatic by asking you three questions.

First, is there anyone on this committee who feels that, under our constitutional concept of separation of powers, the President of the United States and/or his appointed executive agents have got the right to tell the federal judiciary, including the Supreme Court of the United States, "Either you plan, organize and operate your courts in accordance with our wishes and plans or else you will get no funds"?

The second question is this: Is there anyone on this committee who believes or thinks that, under our constitutional concept of separation of powers, the governor of any state or his appointed executive agents have got the right to tell the judiciary of a state, "Either you plan, organize and operate your courts in accordance with our wishes and plans or else you will get no funds"?

The last question is one that strikes at the very heart of the present LEAA program. Is there anyone on this committee who feels that, under our constitutional concept of separation of powers, the governor of any state or his appointed executive agents have got the right to tell the judiciary of a state, "Either you plan, organize and operate your courts in accordance with our wishes and plans or else you will receive only the funds that we want to give you"?

I don't believe there is any member of this committee who can conscientiously answer any one of those three questions affirmatively. But Congress, by its LEAA program, has affirmatively provided a program through which the separation of powers doctrine of each state has been violated and will continue to be violated unless that program is changed.

The next problem area is the "short-changing" of courts in regard to LEAA funding. There seems to be no doubt that courts have received a disproportionately small amount of funds when compared with the other components of the criminal justice system.

When we analyze LEAA funding we find that there are two varying definitions of the word "courts." One definition would include within its scope prosecution, defense, probation, pre-trial diversion, criminal law reform, and various other functions which with few exceptions are normally under the jurisdiction of the executive branch. On the other hand, when the chief justices refer to the term "courts," they are thinking of programs which come under the jurisdiction of the judicial branch alone and that normally are funded in state judicial budgets. These programs do not include prosecutions, defense, probation, etc. Thus there are two "court" categories—one is LEAA's broad definition of courts and the other is the limited definition which refers to the judicial function only. So it is wise whenever the term "courts" is used in regard to statistics to ascertain which category of "courts" is being referred to.

A debate has been going on for several years as to how much money LEAA has placed in the second category. LEAA published information that reflected,

according to its computerized Grants Management Information System (which is usually referred to as GMIS), that courts in their pure sense received 5.12% of LEAA monies in the fiscal year 1971 and that "purely courts" percentage declined to 3.61% in the fiscal year 1973. However, when confronted with the smallness of these figures the agency took another look and its computer came out with a figure that stated that about 17% was spent on purely court projects. An analysis of the computerized print-outs reveal that more than two-thirds of these "purely court" projects turned out to be such things as "alternatives to institutionalization," "community based detention," "pre-trial detention," "investigatory units," "youth services programs," "probation programs" and other non-judicial services. LEAA stopped using this figure after it became convinced that the figure was unreliable.

Now it is my understanding that LEAA contends that the correct figure for current LEAA spending for courts is 16%, but candidly admits that this includes non-judicial functions and that the applicable category is the broad-definition one. Frankly, it appears that under the present method of keeping statistics it is impossible for LEAA to give an accurate figure as to the percentage of LEAA funding that goes to courts alone.

It is the judgment of the chief justice and of the state court administrators based on their actual experience in their states, that the judicial-branch share now averages about 6%. Some states receive more and some states less. For instance, "the courts of Rhode Island have received no more than 3% of the state block funds" according to a statement filed with this committee by Chief Justice Thomas H. Roberts. While the Irving Commission did not study each state, a sampling analysis brought them to the following conclusion:

"Universally, courts have received considerably less financial support than LEAA has claimed. In Georgia, for example, 13 per cent of its FY 72 block grant funds were attributed to the 'courts.' The percentage actually spent on the courts, as narrowly defined, was 2.2 per cent. These funds are obviously inequitable and insufficient. Much of this discrepancy arises because LEAA counts grants to prosecution, defense, information systems, and other programs as grants to the courts."

It is my opinion that LEAA Administrator Richard Velde is alarmed by the lack of reliability of LEAA statistics as they relate to courts and that he honestly desires to ascertain correct statistics. He has just recently commissioned a study to be made by the American University to determine state by state what courts have actually received for the 1972-75 fiscal years and to refine the GMIS so that it can more precisely account for spending in the courts area.

The chief justices and court administrators are convinced that both "courts" in its judicial definition sense and "courts" in its broad LEAA definition sense, have received inadequate and disproportionate funding throughout LEAA's history. There are many reasons for this short-changing of courts. It is inescapable that executive control at the state level is the major reason. There are also reasons that originate in judges themselves. Frankly, there are some states where the judicial leadership is most reluctant to become embroiled in the politics of an executive agency.

The Irving Commission's conclusion of the effect of the LEAA program upon state courts is contained in these words:

"By and large these courts have not received the interest, technical assistance or financial support from LEAA that are absolutely essential for sound growth and progress. In fact, since the initiation of the federal war on crime in 1968, many state courts have fallen further and further behind in their ability to relate to rising crime rates and to the more sophisticated police, prosecutors, defenders, and correctional personnel who have received generous support."

Since the LEAA program has contributed directly or indirectly to some improvement in the judicial system of almost every state and to marked improvement in a few states, such as Alabama, I am not in complete agreement with the last-quoted excerpt from the Irving Commission's report. However, it is inescapable that the judicial branch has been the area receiving the least interest, technical assistance, and financial support of the LEAA program at the state level.

I would next like to direct your attention to how these problems can be solved. The Conference of Chief Justices is firm in its position that it is impossible to bring about the needed improvement in and to the court systems of the states under the present congressional act and that, therefore, changes in the

legislation are necessary. Two approaches to legislative change were given consideration by the Conference of Chief Justices and the Conference of State Court Administrators.

The first approach was to propose to Congress a new congressional act, designed to bring about improvement in the court systems of the states, which would create a new administrative agency completely disassociated from LEAA. The second approach was to recommend an amendment to the LEAA Act which would provide for separate treatment for the judicial system and which would be referred to as "Part F." This amendment would be similar to the amendments that created special parts of the act for corrections and juvenile justice.

The decision was made to follow the second approach. The decision to pursue this second alternative was made for a number of reasons. First, it was felt that Congress would dislike the idea of the creation of a new bureaucratic agency. Next, it was felt that Congress would not be receptive to a new, separate program for state courts when it would be possible for the program to be administered within the organizational framework of LEAA. Finally, since Congress had given priority to corrections and juvenile justice through amendments to the basic act, it was felt that Congress would be more receptive to a similar approach for courts.

The Conference of Chief Justices urges Congress to adopt the proposed amendment to the Omnibus Crime Control and Safe Streets Act of 1968 which was introduced by Congressman Peter Rodino at the request of the Conference of Chief Justices and which is now referred to as H.R. 8967. In lieu of spending a long period of time explaining the details of our proposal, I have attached as exhibits to this statement three documents. Exhibit "A" is a non-technical explanation of H.R. 8967; Exhibit "B" is a copy of H.R. 8967; and Exhibit "C" is a technical explanation of that bill.

If the chief justices are in error as to the receptiveness of Congress to the "Part F" amendment approach we urge this committee to consider alternatives. In any state court improvement act, regardless of whether it be by amendment to the basic act or by separate and independent legislation, certain basic principles and guidelines, which are listed in numerical order, but without intent to give priority to one over the other, should be considered:

1. Courts and judges should be removed and protected from political activities that are prevalent at the state level in the arena of competition for LEAA funds.

2. The provisions of a court improvement act or amendment should be written in keeping with both the separation of powers doctrine of the state constitutions and the principles of federalism.

3. Provision should be made for courts to receive a reasonable and equitable share of total funds provided by Congress.

4. A multi-year comprehensive plan for court improvement should be developed by the judiciary of each state and approved by the state planning agency and the national office of LEAA.

5. Responsibility for planning and funding of court improvement projects in a state should be vested with the judicial branch in accordance with the multi-year comprehensive plan.

6. Provisions should be made for liaison between the judicial branch and the state planning agency in order that comprehensive planning for the entire criminal justice system can be coordinated.

7. Adequate representation from the judiciary on the state planning agency board should be required. Such representation should assist in the liaison and coordination between the judicial branch and other components in the criminal justice field.

8. Courts should have priority over the other elements in the criminal justice field for a limited number of years in order to "catch up."

9. A reserve to supplement state block grants designated for courts should be established so that there will be flexibility in funding to assist those states that demonstrate a willingness and an ability to bring about improvement where the state block grants are inadequate and to assist those states that have just begun court improvement planning.

10. Planning and funding should be made applicable to all trial and appellate courts, not just criminal courts, since improvements in all courts are sorely needed and since all courts interrelate directly or indirectly with the criminal justice system.

11. Provision should be made to support the work of national organizations associated with court improvement such as The National College of State Judiciary, American Academy of Judicial Education, American Judicature Society and other similar organizations.

12. Particular attention should be given to the National Center for State Courts. In March of 1971, the National Conference of the Judiciary was held at Williamsburg, Virginia. There all elements from the judicial branch came together from the different states to discuss court problems. Chief Justice Warren Burger recommended to that group that there be created a National Center for State Courts which would have responsibilities similar to those of the Federal Judicial Center. Such an organization is now in existence. It is the country's only comprehensive national court organization. It serves as an agency to conduct research for state judicial systems. Training of state and local judges and their administrative personnel is another undertaking of this organization. It serves as a national clearing house for the exhaustive amount of information about court problems and provides leadership in court modernization efforts. Hopefully, the states will eventually assume financing of this organization as they have the National Conference of Governors and the National Conference of State Legislatures. However, it is apparent that it will be some time before state legislatures will approve such funding. This organization is presently almost entirely dependent upon LEAA financing and programs. The Conference of Chief Justices earnestly recommends to Congress that provision be made for the funding of this organization free of any federal control for a short period of years until the states can be convinced to assume the funding responsibility.

In conclusion, I would like to take this opportunity to voice my personal hope and desire that the LEAA program will be continued by Congress. The LEAA program has had a tremendous impact on the criminal justice system in each of the states. It has provided leadership, planning and funding for the states to undertake programs which were sorely neglected before the passage of the Omnibus Crime Control and Safe Streets Act of 1968. If the LEAA program was terminated today it would, nevertheless, leave a legacy in the many improvements that have occurred in law enforcement, courts and corrections. Hopefully, Congress will not terminate this program but improve it. With improvement in the congressional act the program can be much more effective.

My presentation would be incomplete if I did not praise the work of Richard Velde, the Administrator of LEAA. He impresses me as being most concerned about the problems in the criminal justice field, including court problems, and willing at all times to listen. I find Mr. Velde to be extremely objective and attentive to the concerns voiced by the Conference of Chief Justices. I realize that we are adversaries before Congress since he opposes the changes in the legislation which the Conference of Chief Justices propose, but, nevertheless, I feel that I should make known to Congress that he has been the most cooperative administrator with whom court organizations, like the Conference of Chief Justices, have dealt. I feel towards Mr. Velde as I do towards an attorney in my home area of Alabama. It seems like every time I was involved in a lawsuit before I went on the bench I found this lawyer at the opposing counsel table. We would approach the issues as adversaries and each fight as hard as we possibly could to win. Regardless of the heat generated by the courtroom battle I never lost respect for my opponent for he was truly a professional. He was a great advocate and a tough opponent, but, above all, he was always a gentleman. I can say the same about "Pete" Velde.

Exhibit A

NONTECHNICAL EXPLANATION—THE STATE COURTS IMPROVEMENT ACT OF 1975

The proposed "State Courts Improvement Act of 1975" is designed to encourage the modernization efforts of the state court systems, by increasing their participation in the existing federal grant program of the Law Enforcement Assistance Administration.

The bill would reserve for the courts an amount equal to 20% of LEAA's "Action" money. In addition to what the courts now receive through their State Planning Agency, an amount equal to 10% of each state's "block grant" would be earmarked for the state judicial system to be spent according to plans devel-

oped by the court of last resort. Should the courts require a lesser percentage, the excess would be available for the same state's general law enforcement needs. A like amount would be dispensed by LEAA at the national level, to supplement the courts' share in states where 10% of the block grant is inadequate, and to fund major courts programs of national scope. Projects eligible for this special "courts" funding would include only those within the responsibility of the judicial branch; functions such as prosecution and defense of criminal cases would be excluded except in the case of several states where such functions are the direct responsibility of the judicial branch.

The bill emphasizes control of court improvement by the courts themselves. The court of last resort would develop an annual application for federal funds, taking into account the needs of all the state and local courts and court agencies, to be included by the SPA in the "comprehensive state plan" submitted to LEAA on behalf of the entire state justice system. During the first fiscal year following passage of the Act, the Supreme Court would compile a "multi-year comprehensive plan for the improvement of the state court system." This "multi-year plan" will foster an overview of the long-term modernization process for all the courts in the state, including not only LEAA sponsored improvements but also the priorities to be funded by state and local appropriations. Once the state's share is received from LEAA, eligible participants will apply for federal dollars through the court of last resort. This will assure that the money is spent for purposes consistent with the goals set by the courts in their annual application for the fixed share of funds and in their "multi-year plan."

By this process, the bill seeks both to ensure that federal funds are spent wisely, and to promote a sophisticated court planning capability so that all the business of the courts is better managed. In states where the court planning functions would best be performed by another body, the Supreme Court may delegate its responsibility to the Judicial Council or some other appropriate existing body, or create a new court planning entity.

In a number of states, one source of LEAA ineffectiveness has been the courts' under-representation on the boards of SPAs. In addition to guaranteeing greater funding and internal planning for the judicial system, the bill would correct this imbalance by providing that one-third of SPA members be appointed by the Governor from a list of candidates supplied by the Chief Justice, with three nominees per vacancy. While the purpose of this feature is to lend a greater courts perspective to the process of criminal justice planning, not all of these seats need be occupied by judges. Interested government or private attorneys or private citizens might be nominated as appropriate to the circumstances in particular states.

To compliment the state courts' efforts to make effective use of all available resources, the bill assures the continued basic support of the National Center for State Courts. Although only four years old, the National Center has already become a useful service organization to the state courts and has made significant contributions in many of the states. The bill also provides for a two year study and report to Congress on the causes of delay in litigation, and guarantees that the National Center's unique technical assistance capability will be on call to all the courts.

This brief summary outlines the way in which this draft legislation seeks to advance the cause of improvement in state and local courts, while building into the LEAA Act a greater recognition of the separation of powers principles incorporated in every state constitution. Details are set out more fully in the technical explanation attached at the back of the proposed legislation.

Exhibit B

[H.R. 8967]

AN ACT To amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Courts Improvement Act of 1975."

Sec. 2. Congress finds that the burgeoning workload of the State court systems as a result of the increase in both civil and criminal litigation threatens

the rights of criminal defendants and hampers efforts to reduce and prevent crime and juvenile delinquency, and to ensure the greater safety of the people. In order to ensure a fair and speedy hearing to criminal defendants and to society, State court systems must be modernized and improved.

Congress finds that the principles of federalism essential to the Constitution of the United States require that the State courts be improved according to plans developed by the States rather than the national government. Congress finds further that the independence of the judicial branch is a vital aspect of the separation of powers embodied in the constitutions of the several States as well as that of the Federal government. The State court systems can be improved only by both recognizing the essentially State and local nature of the problem and also respecting the division of authority among the coordinate branches of State governments.

It is therefore the declared policy of the Congress to assist the State court systems in improving the system of justice at every level in keeping with these findings and principles. It is the purpose of this Act to (1) commission a study and report to the Congress of the causes and remedies for delay in litigation in the State courts, (2) encourage the State judiciaries to adopt coordinated planning, (3) authorize additional grants to the State courts, to improve and strengthen their operations and (4) encourage research and development directed toward improvement of the State judicial systems.

TITLE I—OMNIBUS CRIME CONTROL AND SAFE STREETS ACT AMENDMENTS

Sec. 3 (a). Title I of the Omnibus Crime Control and Safe Streets Act of 1968 as amended is amended by inserting immediately after part E the following:

"Part F—Grants for State Court Assistance.

"Sec. 476 (a). It is the purpose of this part to provide for the independence of and necessary funding for improvement of the State judicial systems, and to encourage the State judicial systems to develop and implement innovative programs and projects.

"(b) The Administration is authorized to make grants to States in accordance with applications under this part for:

"1. development, in accordance with this part, of a multi-year comprehensive plan for the improvement of the State court system, based on the needs of all the courts in the State and an estimate of funds available from all Federal, State and local sources;

"2. definition, development and correlation of programs and projects for the State and local courts or combinations of State and local courts for the improvement of the court systems;

"3. establishment of priorities for the courts of a State;

"4. court improvement projects, including the development, demonstration, evaluation, implementation and purchase of methods, devices, personnel, facilities, equipment and supplies designed to strengthen courts and improve the availability and quality of justice;

"5. the hiring and training of judges and of court administrative and support personnel;

"6. collection and compilation of statistical data and other information on the work of the courts and on the work of other agencies which relate to and affect the work of the courts;

"7. examination of the state of the dockets, practices and procedures of the courts and development programs for expediting litigation;

"8. investigation of complaints with respect to the operation of courts and the development of such corrective measures as may be appropriate;

"9. support of national organizations concerned with court reform and improvement of the State judicial systems;

"10. revision of court rules and procedural codes within the rule-making authority of courts or other judicial entities within the State;

"11. exploration and resolution of conflicts among State and Federal courts;

"12. the purposes set out in paragraph (4) of subsection (b) of section 301 of this Title, insofar as they are consistent with the purposes of this part;

"13. such other purposes consistent with the objectives of this part, including such as also may be consistent with part C, as may be deemed appropriate by the State court of last resort or such other body as it shall designate or create pursuant to section 477 of this part.

"Sec. 477. Except as provided in section 478, a State desiring to receive a grant under this part for any fiscal year shall—

"(a) beginning with the fiscal year ending September 30, 1977, or such later time as may be determined by the Administration, have on file with the Administration a multi-year comprehensive plan for the improvement of the State court system developed in accordance with this part by the State court of last resort or such other body as it shall designate or create, and

"(b) incorporate its application for such grant, developed by the State court of last resort or such other body as it shall designate or create, in the comprehensive State plan submitted by the State planning agency to the Administration for that fiscal year in accordance with section 302 of this title. Such application shall conform to the purposes of this part and to the multi-year comprehensive plan for the improvement of the State court system as set out in subsection (a) of this section.

"Sec. 478. The Administration shall make grants under this part to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan (not more than one year in age) as required by section 302 of this title, including a multi-year comprehensive plan for the improvement of the State court system as required by section 477 (a) of this part and an application for such grant as required by section 477 (b) of this part. Notwithstanding any other provision of this part, the Administration shall make grants under this part to a State planning agency for the fiscal year ending June 30, 1976, and for a later fiscal year if allowed by the Administration, without such multi-year comprehensive plan for the improvement of the State court system, provided the application for such grant sets out in detail a process to ensure development of such multi-year comprehensive plan as required by section 477 (a).

"Each application under this part shall:

"1. Provide for the administration of such grants by the State planning agency in keeping with the purposes of this part, and the findings and declared policy of Congress.

"2. Adequately take into account the needs and problems of all courts in the State and encourage initiative by the appellate and trial courts of general and special jurisdiction in the development of programs and projects for law reform, improvement in the administration of courts and activities within the responsibility of the courts, including but not limited to bail and pretrial release services, and provide for an appropriately balanced allocation of funds between the State-wide judicial system and other appellate and trial courts of general and special jurisdiction;

"3. Provide for procedures under which plans and requests for financial assistance from small courts in the State may be submitted annually to the court of last resort or such other body as it shall designate or create for approval or disapproval in whole or in part;

"4. Incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of courts and court programs, including descriptions of: (a) general needs and problems; (b) existing systems; (c) available resources; (d) organizational systems and administrative machinery for implementing the plan; (e) the direction, scope, and general types of improvements to be made in the future; and (f) to the maximum extent applicable, indicate the relationship of the plan to other relevant State or local law enforcement and criminal justice plans and systems;

"5. Provide for effective utilization of existing facilities and permit and encourage units of general local government to combine or provide for cooperative arrangements with respect to services, facilities and equipment;

"6. Provide for research, development and evaluation;

"7. Set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for the courts;

"8. Provide for such fund accounting, audit, monitoring and program evaluation procedures as may be necessary to assure sound fiscal control, effective management, and efficient use of funds received under this title;

"9. Provide satisfactory assurances that the availability of funds under this part shall not reduce the amount of funds under part C of this title which a State would, in the absence of funds under this part, allocate for purposes of

this part. To this end, each application under this part shall include a computation of the average amount expended by the State planning agency under part C of this title, for activities within the responsibility of the courts, for the three most recent fiscal years for which data is available, and guarantee that such amount will be available for grants under section 479 of this part.

"Sec. 479. All requests for financial assistance from appellate and trial courts of general and limited or special jurisdiction and other applicants eligible under this part shall be received by the State court of last resort or such other body as it shall designate or create. The court of last resort or such other body shall review all requests for appropriateness and conformity with the purposes of this part, the findings and declared policy of Congress, the multi-year comprehensive plan for the improvement of the State court system, if on file with the Administration, and the application included in the State comprehensive plan under this part. The State court of last resort or such other body shall transmit requests approved by it along with comments to the State planning agency. The State planning agency shall make grants under this part or under part C as provided in section 478 (9) for any request approved by the State court of last resort or such other body, provided that such approved request conforms with the State planning agency's fiscal accountability standards. Any approved request not acted upon by the State planning agency within 90 days of receipt from the court of last resort or such other body shall be deemed approved for the purposes of this title, and the State planning agency shall disburse the approved funds to the applicant in accordance with procedures established by the Administration.

"Sec. 480 (a). The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:

"1. Fifty percentum of the funds shall be allocated among the States according to their respective populations for grants to State planning agencies;

"2. The remaining fifty percentum of the funds may be made available, as the Administration may determine, for grants to State planning agencies for courts as defined in Section 601 (p) or combinations of such courts, or to private non-profit organizations. Such funds shall be available according to the criteria and conditions the Administration determines consistent with this title, this part, any multi-year comprehensive plan for the improvement of the state court system and any application under this part in effect for the State where the grantee is located.

"The portion of any Federal grant made under this section for the purposes of paragraph (12) of subsection (b) of section 476 may be up to 50 percentum of the cost of the program or project specified in the application for such grant. No part of any grant under such paragraph for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. The portion of any Federal grant made under this part to be used for any other of the purposes set forth in this part may be up to 90 percentum of the cost of the program or project specified in the application for such grant. The non-federal share of the cost of any program or project to be funded under this section may be of money appropriated in the aggregate or in segments by the State or units of general local government, or provided by a private non-profit organization, as well as monies appropriated to courts, court-related agencies and judicial systems. The ratio that money appropriated by the State for purposes of this section bears to the total application by the State for Federal funds under this part shall be not less than the ratio that money appropriated by the State for purposes of part C, section 301 (c) bears to the total application by the State for Federal funds under part C.

"(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds granted to an applicant under this part for that fiscal year will not be required by the applicant for the purposes of this part or will become available by virtue of the application of the provisions of section 509 of this title, that portion shall be available for expenditure by such applicant under subsection (a) of section 303 of this title."

(b) Section 203 (a) of such Act is amended by adding immediately after the third sentence the following:

"Not less than one-third of the members of such State planning agency shall be appointed from a list of nominees submitted by the chief justice or chief judge of the court of last resort of the State to the chief executive of the State, such list to contain at least three nominees for each position to be filled to satisfy this requirement."

(c) The first sentence of section 301 (d) of such Act is amended to read as follows:

"Not more than one-third of any grant made under this section may be expended for the compensation of police and other regular law enforcement and criminal justice personnel, not including court personnel."

(d) Section 515 of such Act is amended by adding the following after subsection (c):

"(d) to provide \$5,000,000 annually in support of the National Center for State Courts. The National Center for State Courts shall—

(1) maintain a continuing capability to render technical assistance, research and coordination, upon request to States developing or maintaining the court planning capability required by section 477 of this title, as well as to courts, court-related agencies and judicial systems within each State, and

(2) conduct a comprehensive nationwide study and report to the Congress and to the Administration within twenty-four months of the date of enactment of this section. Such report shall detail planning, resources and actions recommended to reduce delay in State trial and appellate courts with respect to litigation and workloads in such courts.

Such operating support shall not preclude additional funding under this title for specific projects of the National Center for State Courts."

(e) Section 601 of such Act is amended as follows:

(1) by deleting from subsection (a) thereof the words "courts having criminal jurisdiction" and substituting the words "courts as defined in subsection (p) of this section", and

(2) by inserting at the end thereof the following new subsection:

"(p) The term 'court of last resort' shall mean that State court having the highest and final appellate authority of the State. In States having two such courts, court of last resort shall mean that State court having the highest and final appellate authority and administrative responsibility for the State's judicial system. The term 'court' shall mean a tribunal recognized as a part of the judicial branch of a State or of its local governmental units having jurisdiction of matters which absorb resources which could otherwise be devoted to criminal matters."

(f) Part F, part G, part H and part I of such Act are redesignated as part G, part H, part I, and part J, respectively.

ADMINISTRATIVE PROVISIONS

Sec. 4. Part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by section 3 (c) of this Act) is amended as follows:

(1) Section 520 is amended by adding the following after the last sentence:

"Beginning in the fiscal year ending June 30, 1976, and in each year thereafter there shall be allocated for the purpose of part F an amount equal to not less than 20 percentum of the amount allocated for purposes of part C."

Sec. 5. For the fiscal year ending June 30, 1976, the Administration and State planning agencies are authorized and encouraged to make available to the State court of last resort or such other body as it shall designate or create a portion of Federal funds granted under part B or part C of the Omnibus Crime Control and Safe Streets Act of 1968 for the purposes set out in paragraphs (1), (2) and (3) of subsection (b) of section 476 of the Omnibus Crime Control and Safe Streets Act of 1968, as set out in section 3 (a) of this Act.

Exhibit C

[H.R. 8967]

TECHNICAL EXPLANATION OF "STATE COURTS IMPROVEMENT ACT OF 1975"

Attached is a draft of a bill to provide increased federal support for the state court systems. Briefly, this statute would alter Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (the LEAA Act) in the same way as the

1970 "Part E" amendment which was passed to encourage development of special correctional programs. An amount equal to not less than 20% of the bulk of the LEAA aid to the state criminal justice systems, the "Part C—Grants for Law Enforcement Purposes," would be set aside for the courts. One-half would be block-granted to states according to population and spent on projects approved by the supreme court, and one-half would be granted for national projects or to supplement block grants at the discretion of LEAA. This amount would be in addition to that already spent for the courts under the Part C program.

In addition to the increased dollar support, a major purpose of this legislation is to promote planning by the courts themselves on a statewide basis. While no specific portion of the LEAA "Part B—Planning Grants," the money which pays the operating expenses of the State Criminal Justice Planning Agencies (SPA's), is reserved for the courts, the mechanics of Part F itself will require a rational planning process.

In states desiring to receive Part F funds, the court of last resort will develop a "multi-year comprehensive plan for the improvement of the state court system" during the first year of the program, based on two factors: the requirements of all the state and local courts, and the funding anticipated from all local, state and federal sources.

A second element of the planning process is the annual application for Part F funds, to be compiled by the court to match the available LEAA dollars with the current needs of the entire judicial structure. Both the multi-year courts plan and the annual application will be submitted to LEAA as part of the state's overall "comprehensive plan" for improvement of the criminal justice system.

Once LEAA approves the plan and grants each state planning agency its Part F share, the court of last resort will receive requests for financial assistance from all the courts of the state and other eligible grantees, review these requests for individual merit and conformity with the priorities already set by the judicial system, and forward those which it approves to the SPA for funding. If appropriate to the state structure, the supreme court's functions may be delegated to another body, including the judicial council or the state planning agency. Should the total allocated for a state's Part F share exceed the courts' needs for any year, the excess would revert to the state's Part C share, to provide additional grants for law enforcement purposes.

LEAA national level grants, totalling one-half of the Part F appropriation, will supplement the state-administered assistance to the courts. It is anticipated that these funds will be used primarily to augment the state Part F share in jurisdictions where the fixed percentage is inadequate to meet the need, and secondarily to fund "national-scope" projects which are of interest to all courts, but which no individual state could support on its own.

An additional feature of the bill designed to ensure more meaningful participation by the courts in the LEAA program is the change in the SPA board. One-third of the membership of this group, with overall supervision of federal law enforcement funds in each state, will be appointed by the Governor from a list of nominees submitted by the Chief Justice.

Other important details of the proposed legislation are reviewed in the section-by-section analysis set out below:

Sec. 1.—This section selects the title for the statute, the "State Courts Improvement Act of 1975."

Sec. 2.—Section 2 describes Congressional findings in a way that recognizes three key factors in the present situation. First, the increase in volume jeopardizes the quality of justice provided to individual litigants, whether parties to private civil actions or criminal defendants, and to society as a whole. Secondly, our federal system dictates that modernization of the state courts is a task for the states rather than the national government. Third, within the state governments themselves, separation of powers requires that the judicial branch, rather than the executive or the legislature, direct the course of court improvement.

With these premises in mind, the section sets out four broad purposes: to research the "delay" problem in particular, to encourage planning by the courts, to provide additional funding for the courts, and to promote research and development of solutions for problems of the courts.

Sec. 3(a).—The basic device by which the purposes of this statute are to be accomplished is by addition of a "Part F—Grants for State Court Assistance",

consisting of sections 476 through 480 inclusive, to Title I of the Omnibus Crime Control and Safe Streets Act of 1968 as amended, the basic authorization for the grant program of the Law Enforcement Assistance Administration (LEAA or "the Administration").

Section 3 (a) of the bill enumerates the five sections of "Part F":

Section 476.—The opening section is patterned after section 301(a) and (b) of the LEAA Act. Subsection (a) briefly restates the purposes of Part F in a manner consistent with the opening language of the other parts of the existing statute.

Subsection (b) authorizes grants to the states which have filed applications under Part F on behalf of their court systems. Thirteen numbered paragraphs describe the type of projects which may be included in such applications.

Paragraphs one through three make long-term planning, based on the needs of all the courts and an estimate of funds available from all sources, the first priority. Paragraphs four through eleven set out a broad range of likely court projects. Paragraph twelve allows construction of court facilities by cross-reference to Part C of the LEAA Act. Section 480(a) limits the terms of construction grants to 50% federal funding, as in Part C.

All of the programs mentioned share a common characteristic in that they treat judicial branch functions. The bill intends to deny Part F funding to the activities of executive branch agencies peripheral to the courts. In most states, the prosecution and defense of criminal cases would be typical examples of excluded programs. However, states vary as to which of these collateral activities fall within or outside the responsibility of the "court" system.

The court of last resort in each state is in the best position to know which aspects of the justice system are properly termed "court" programs. For this reason, paragraph thirteen vests discretion as to what constitutes a "court" project with the Part F planning body. It also makes clear that the list of court projects is intended to be neither exhaustive nor exclusive of the courts programs already eligible under Part C. In states where prosecution, defense, or other services are under the authority of the court system, they will qualify for Part F funds. Similarly, section 478(2) requires "activities within the responsibility of the courts" to be accounted for in the annual application for Part F funds, and section 478(9) guarantees that these functions will be included in computing the courts' share of Part C.

Section 477.—Two requirements are imposed for participation in the Part F "block grant" program, in addition to the overall "comprehensive state plan" for the improvement of criminal justice now filed to obtain Part C funds. Each year the State must include a "Part F application", as described in Section 478, in its "comprehensive state plan." Except where LEAA allows additional delay in individual cases, states must also file a "multi-year comprehensive plan for the improvement of the state court system" by the second year of the program. Both documents are to be prepared by the court of last resort or its designee.

The "multi-year comprehensive plan for the improvement of the state court system" is intended to be a far-reaching blueprint for all the courts of the state. It is meant to look beyond the set of priorities to be met by federal funding, to include all court operations and state and local appropriations. Because of the scope of this requirement, it is put off for one year or longer as the Administration deems appropriate, and Part F funding allowed for at least Fiscal Year 1976 on the strength of the first annual application alone. It is expected that the development of the multi-year plan will be a major item in each state's initial Part F application.

Section 477 fits the Part F scheme in the way that section 452 is included in Part E, and section 302 in Part C of the LEAA Act.

Section 478.—Language from section 303 of the LEAA Act has been adopted with minor changes to mandate Part F "block grants" from LEAA to those states which have met the requirements of the previous section. Section 478 expressly allows the grace period for filing of the multi-year plan. The cross-reference to section 477(b) requires a new Part F application annually, beginning with the first year.

The mandatory provisions of the Part F application are included in numbered paragraphs, following the model set in section 453 for the Part E application for grants for correctional institutions, and in section 303(a) for the Part C state comprehensive plan for law enforcement grants. Various of the Part C and Part E requirements have been included or excluded, and some new provisions added, as necessary to meet the special needs of the courts and Part F.

Paragraph one parallels Part C in providing for SPA administration of grants. While the court of last resort is expected to monitor the "program" aspects of projects which it has approved and evaluate the final results, it would be wasteful and expensive to duplicate the fiscal review and administrative capability already extant in the SPA. It is for this reason that none of the Part B Planning Grant which funds the SPA is expressly reserved for the court of last resort. Under paragraph eight, the Part F planning body has authority to delineate the SPA's "administrative" functions and its own "program" evaluation duties. The cost of the monitoring function retained by the court will be included in the Part F application as a planning expense.

There is no express "pass-through" requirement of a fixed share of Part F for "local" courts. This feature of section 303(a)(2) has proven to be a barrier to effective participation by the courts in the Part C program in those jurisdictions where the judicial system is administered on a statewide basis. Because many states view such a "unified court system" as an essential step to modernization, flexibility is allowed in apportioning Part F among state and local courts. However, the bill respects the autonomy of all the various courts in non-unified states by requiring, in paragraphs two and three, that their needs be represented in the multi-year plan, the annual application, and actual granting of funds. Paragraph two once again acknowledges the diversity among the states regarding the services which are the responsibility of the judicial branch. Just as section 476(b) recognizes that such activities ought to be eligible for Part F grants, section 478 includes them in the application planning process.

Paragraphs four, five, and six set out the themes of the Part F application, stressing awareness of existing needs and resources, innovation, research, development and evaluation.

The federal money available under the LEAA Act is intended to supplement rather than supplant state and local funds. Paragraph seven, requiring that steps be taken to ensure this result, is the same as that in section 303(a)(11) in Part C, and nearly identical to section 453(3) in Part E.

Paragraph eight is adopted verbatim from section 303(a)(12).

Consistent with the bill's purpose to provide additional money for the courts, paragraph nine directs that the courts continue to receive their three-year average of Part C grants. This language makes more specific a requirement which is also written into section 453(3) of Part E for corrections. Once again, the range of functions within the responsibility of the judicial branch of each state will determine which programs are included in the courts' "Part C average." It also makes clear that the Part C block grants allocated to the courts are to be spent through the Part F process, under the control of the court of last resort or its designee.

Section 479.—This section sets out the mechanical process for spending the state's Part F share and the standard of review for requests from eligible recipients. The court of last resort or its designee receives, reviews and approves or disapproves all requests in the first instance, according to their merit and conformity with the purposes of Part F, the multi-year plan and the annual application. The court forwards approved requests to the SPA for funding, unless the SPA finds within ninety days that the project offers inadequate fiscal accountability. The ninety day limit is adopted from section 303(a)(15).

Section 480.—The division of Part F appropriations between "state block" and "national scope discretionary" grants borrows from both Part C, section 306(a) and Part E, section 455(a). The Part C apportionment of block grants among the states according to population is adopted, but the Part E 50%-50% split between block and discretionary grants is favored over the Part C 85%-15% division. This provision recognizes that some states courts are advanced and require less assistance, while others may need substantial extra funding. Under these circumstances, it seems wise to allow LEAA broader discretion to supplement block grants in those states where additional money will do the most good. This section accomplishes this end while still assuring each state of an adequate basic share.

Eligible recipients, matching requirements and other limitations are adapted from Part C. The final sentence of subsection (a) is designed to ensure that the states contribute a percentage of the cost of court improvement which is equal to their matching share of the general law enforcement grants.

Subsection (b) provides that Part F block grant not necessary for court purposes will remain within the state to augment its own Part C share. This contrasts with Part C and E, under which excess funds revert to LEAA for redistribution among the states.

In addition to adding Part F, the bill amends various sections of the LEAA Act.

Sec. 3(b).—Section 3(b) of the bill guarantees the courts one-third representation on the SPA board by a change in section 203(a) of the Act.

Sec. 3(c).—Recognizing that the courts are a uniquely labor-intensive arm of the justice system, section 3(c) revokes the personnel limitation of section 301(d) of the LEAA Act for court programs under Part C. This restriction is omitted from Part F.

Sec. 3(d).—Annual operating support of the National Center for State Courts, the service organization for the state court systems, is added to section 515 of the LEAA Act in view of the information support, technical assistance and technology transfer nature of much of this organization's activity. A primary purpose for this authorization is to assist the state courts in planning to spend Part F funds wisely. The support provided will also fund a two-year comprehensive nationwide survey, study and report to Congress and the Administration as to the causes and possible remedies for litigation delay. This study will supply Congress and LEAA with comprehensive information on improvements and resources necessary for the courts and related agencies to meet the need for speedy trial.

Experience has shown a basic operating budget as well as individual project grants to be essential to the National Center's growing contribution to the advancement of state court improvements.

Sec. 3(e).—The definitions section of the LEAA Act is amended to include a definition of "court of last resort." In states where final appellate authority is divided between two or more courts, as between separate criminal and civil courts of appeals, the "court of last resort" will be that court with general administrative responsibility over the state judicial system. The definition of "court" is expanded in view of the fact that the malfunctioning of any part of the judicial system inevitably affects the administration of criminal justice.

Sec. 3(f).—This section re-labels the existing parts of the LEAA Act to accommodate the new Part F.

Sec. 4.—This bill follows the pattern set by the 1970 Part E amendments, setting aside an amount for Part F equal to 20% of Part C. Under this arrangement, the bulk of the LEAA annual appropriation (not including Part D research funds, administrative costs, and technical assistance) is divided approximately as follows: 70% for Part C general law enforcement purposes, 15% for Part E corrections programs, and 15% for Part F courts grants.

Sec. 5.—This section urges the Administration and the SPA's to use any available Part B or Part C funds to begin the court planning process as soon as possible after the enactment of this bill.

Senator THURMOND [presiding]. The subcommittee will come to order. The next witness is Hon. James Richards, chief justice, superior court of Lake County, Hammond, Ind. Judge, we are glad to have you with us, and you may proceed.

STATEMENT OF HON. JAMES RICHARDS, CHIEF JUDGE, SUPERIOR COURT OF LAKE COUNTY, HAMMOND, IND.

Mr. RICHARDS. Thank you, Senator Thurmond. I apologize to the chairman and to the committee for not having filed earlier a prepared written statement or an indication of who I am representing and what my past experience is. I might just briefly—

Senator THURMOND. You might just summarize in your own words and your entire statement will be printed following your remarks.

I might say that several of us on this committee have other hearings going on right now and so the fact that we all are not here all the time, I am sure the public understands, is because you cannot be in three places at one time. Go right ahead.

Mr. RICHARDS. Thank you very much. I am a trial court judge in Indiana. I have been on the bench since 1963 and in the past year have been the chairman of the National Conference of State Trial

Judges affiliated with the judicial administration division of the American Bar Association.

I am not here, however, in my official capacity in that now, having gone out of office last month. I am here in my individual capacity as a State trial judge who, I believe, has become familiar with the problems that the judiciary has experienced with the use of LEAA funds over the past 5 years. I understand the American Bar Association will have a statement and official position at a later date.

The first problem that I discovered when I became chairman of the National Conference of State Trial Judges was that judges throughout the United States were having difficulty being able to utilize and to obtain LEAA funds. In order to try to determine what the problems were that were encountered and to try to do something about it, I asked Mr. Velde if he would appear before a National Conference executive committee, which he did, and in due course, set up a number of regional meetings throughout the United States, at which judges from over 40 States participated, as well as officials of LEAA, both at the local and regional level, and from the national office.

I notice that Mr. Swain is here today, who appeared at a number of my regional meetings, representing Mr. Velde. At these regional meetings it became clear that one of the problems of the judges was quite similar to what Chief Justice Heflin has just outlined to this committee. I, incidentally, just want to join in the statement that Chief Justice Heflin made and compliment him for such an eloquent statement. I am afraid I will not be able to match his ability nor his statement. I would like to join in it, however.

Fortunately, for Alabama, Chief Justice Heflin is a very strong chief justice, who I think has made a mark there for other States to follow. As a matter of fact, having found out what Chief Justice Heflin did in the State of Alabama, I would utilize some of his personnel in setting up regional meetings throughout the country to show other judges in other States what could be done if you have a proper planning program and a good organization in the State. So, he deserves full credit for that system.

In any event, our problems in the States have been that the judges do not have representation on State planning agencies. That is, proper representation in most instances, and, in my own State, it is token representation. We have one judge on the State planning agency, which is the arm of LEAA, in the State of Indiana on the whole. In almost every State, these agencies are controlled by police groups or law enforcement groups. The Governor makes the appointments. His immediate first appointments have been the State police superintendents or State police high ranking officers, the ranking officer of the Chiefs of Police, the association of the State, an officer of the Sheriff's Association, the constable of the Marshal's Associations. As a result, the police have predominated in most of these planning agencies to, in my opinion, the detriment of the courts, in those States which have oftentimes been slow to take advantage of what moneys were available through LEAA. Our problem has been planning.

Now, I wanted to join with Chief Justice Heflin in his support of the Rodino bill. I understand it has been introduced in the House. This bill would provide that judges would get a proportionate repre-

sentation on State planning agencies, and that certain funds would be made available for use of the courts in and through the various States. This would insure that the courts got their proportionate share of the LEAA funding—I say, courts in the adjudicative capacity, not courts as a definition that has been used heretofore by LEAA, in that they combine their prosecutors, the public defenders, the probation and other departments under the term, courts. When I speak of courts, I refer to them in their adjudicative capacity.

Now, we know that there are many and varied problems among the States. In some States you have a strong chief justice, such as Mr. Heflin; in other States you have a system where the State trial judges are almost completely independent. You have different problems when you get to a rural area or rural States as opposed to those in metropolitan areas. So that it is not an easy problem to solve, but I can say that Mr. Velde has been sensitive to these problems; that he has listened to our plea; that he authorized and had prepared by American University the Criminal Courts Technical Assistance Project, a report to determine the effect of LEAA support on the State courts and what needed to be done in that field. I would like to file a copy of an abstract of this report with this committee, and I will have copies ready for all the members of the committee to examine.

Senator THURMOND. How long is it?

Mr. RICHARDS. I have it right here, Senator Thurmond.

Senator THURMOND. You file it with the committee and, if it is agreeable to you, we will decide whether it should be incorporated in the record, or held available to the committee.

Mr. RICHARDS. I would urge that you do because I think it fairly finds the problems as they exist in the various States with this representation.

Senator THURMOND. That decision will be made by the chairman.

Mr. RICHARDS. I think it would support the Rodina bill, the eventual passage of the Rodino bill.

One of the prime acts that I think Richard Velde took with respect to remedying this problem has been to give a grant to the National Center for State Courts to do some planning for the courts, and unfortunately in most States the State trial judges are not under the direct control of the chief justice of the State, and are not able to arrange for their own planner, either do not have the facilities to do so, or the expertise to do any planning on their own for future innovative projects or to improve the courts in their business activities. I think that courts these days do have to be run as a business. We need modern business methods; we need to use more court administrators who are experts in their business, and can organize the courts in a manner that will make them more efficient and expedite the hearing of cases, not only criminal, but civil. One, I think, is dependent upon the other.

I like to think that Indiana has been somewhat ahead of most of the States in the work that has been done, utilizing LEAA funds. I think that the primary task has been to create educational programs for the judges throughout the country. Indiana has established a judicial center which controls and establishes programs for the education of judges in the State, both the veteran judge, as well as new judges

coming into the State. The programs are patterned after the national college of the State judiciary, which is also the beneficiary of some LEAA funds. In this respect I think the funds have been useful to the courts, but only in a very small percentage. The percentages I will not go into. I think Chief Justice Heflin covered the percentages of funds that have been utilized for courts' purposes in comparison with other components of the criminal justice system.

The National Conference of State Trial Judges conducted after the regional meetings arrived almost to a unanimous conclusion that it was necessary that LEAA be continued in operation, that you extend the Safe Streets Act for another 5 years, and that continued funding be made available to improve State judiciaries. I join in Justice Heflin's statement that we need to be independent, that we should not be tied in and involved in intrastate battles with other components of the criminal justice system within our State, as is now the case.

I think that if we are given the opportunity to do our own planning and provided with some planners that can help us with expertise in the field, that the State trial judges will be able to do the job without other outside interference.

I would be pleased to answer any questions you have, Mr. Chairman. I want to file also a copy of the resolution that the National Conference of State Trial Judges has adopted, and I will file that as an exhibit.

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

[The material referred to follows:]

STATEMENT OF JAMES J. RICHARDS, CHIEF JUDGE, SUPERIOR COURT OF LAKE COUNTY, IND.

Mr. Chairman and Members of the committee: It is a pleasure for me to be able to appear before this Committee to support the Extension of the Omnibus Crime Control and Safe Streets Act.

I am here in my capacity as a state trial court judge from Indiana who, as immediate past Chairman of the National Conference of State Trial Judges, believe that I can reflect the feelings of state trial judges throughout the United States.

I am not here as an official representative of the American Bar Association or as an official representative of the National Conference of State Trial Judges since I did not have time to obtain such authorization nor approval of the American Bar Association or the National Conference of State Trial Judges to state their official views. My understanding is that the American Bar Association is preparing an official statement which will be submitted to this Committee for the record at a later date.

The Courts, and when I speak of Courts I refer to Courts in their adjudicative capacity, have been slow in making full use and taking full advantage of funds that have been provided by LEAA during the past five years in order to effectuate significant change in the Criminal Justice System.

During the past year while serving as Chairman of the National Conference of State Trial Judges, I conducted four regional meetings for Judges throughout the United States. One of the purposes of which was to acquaint the Judges with the American Bar Association Standards for Criminal Justice and the National Advisory Commission Standards and Goals for Criminal Justice in order to upgrade the operations and procedures of their Courts and improve the administration of Justice in each individual State. It became apparent to me that judges had fallen far behind other elements of the Criminal Justice System in making use of funds that were available for court improvement projects. Judges have been on the whole too busy to take an active part in long-range planning to improve their own judicial operations and have not been in a posi-

tion to obtain the services of a professional planner nor have they been aware of the availability of the National Center for State Courts or other National Organizations to assist in Court planning in each State. These regional meetings brought together judges; regional directors of the National Center for State Courts; and LEAA Officials, both State and National, to discuss these problems and make the judges aware of what planning capabilities were already in existence for their use.

It soon became apparent that the primary weakness in each state planning organization was the fact that there were either no trial court judges or a very limited number on state planning agencies. Most of the state planning agencies were controlled by law enforcement groups with the Governors appointing only a token number of judges to each state planning agency, leaving them with a very ineffective voice in the planning process. This fact has been confirmed and discussed in detail in a report prepared by the American University, Criminal Courts Technical Assistants Program titled, Report of the Special Study Team on LEAA Support to State Courts, an abstract of which report is attached to this statement for the Committee's use. I am also attaching a resolution adopted by the National Conference of State Trial Judges in August of 1974 setting out the position of the National Conference of State Trial Judges with respect to the funding of the Courts in each State which I believe is self-explanatory.

The trial judges concern was such that a request was made to Mr. Velde, Administrator of LEAA, to appear before the Executive Committee of the National Conference and Mr. Velde did appear, which meeting culminated in a decision to hold the regional conferences, referred to above, all of which were attended by a high-ranking member of Mr. Velde's staff who took cognizance of the difficulties being encountered by state trial judges and made suggestions on how to improve the relationship between state judges and state planning agencies of LEAA and encourage judges to take a more active part in long-range planning in their individual States.

I wholeheartedly support the position of Chief Justice Howell Heflin who is also appearing before this Committee on support of the Rodino Bill which would provide, among other things, for a better representation for judges on state planning agencies and a fixed percentage of funds to be allocated for the use of their courts in their adjudicative function.

The Administrator of LEAA, Mr. Richard Velde, has already made significant changes for remedying the defects in the support programs for courts and judges by awarding a grant to the National Center of State Courts for a project to develop state court planning capabilities. The National Center will thus be able to cooperate with state court systems in developing their own planning capabilities and produce and disseminate information about court planning.

I believe the most effective use of LEAA funds by judges in their adjudicative capacity has been in the past few years in the field of continuing judicial education. I am proud of our Indiana Judicial Center of which I am Chairman for its presentation of programs to continue and upgrade the legal education of judges. These programs have been patterned after those of the National College of the State Judiciary located at the University of Nevada in Reno which has now awarded over 4,700 certificates of completion of resident academic sessions to judges throughout the United States all with substantial help of LEAA funds. We hope that LEAA will continue to support this type of training programs on the National and State level, but we need to develop programs that will include and improve the business operations of the Courts in a modern businesslike method. The operations of the Courts today is a big business that needs modern technology and systems to insure the greatest efficiency.

CONCLUSION

That the concept of the Omnibus Crime Control and Safe Streets Act is uniformly supported by state judges who urge its continuation as indicated by the resolution attached and an amendment is desirable to allow judges equal representation on state planning agencies with the other branches of the Criminal Justice System to insure the independence of the State Judiciary and an allocation of funds to the Judiciary that will avoid placing the Judiciary in competition with the other elements of the Criminal Justice System. This would continue the improvement of our Criminal Justice System through the Judiciary in the years to come.

I would be pleased to answer any questions from the Chairman or any Members of the Subcommittee.

RESOLUTION

Whereas, the National Conference of State Trial Judges is appreciative of the Congress of the United States for its criminal justice program by which financial assistance has been channeled to the States to augment State and local sources in improving the administration of justice within the States; and

Whereas, it is commendable that such criminal justice program has been administered by the Law Enforcement Assistance Authority without an attempt to impose mandatory federal standards upon State court systems; and

Whereas, in the administration of such criminal justice program by State executive planning agencies of the LEAA there have surfaced serious structural and procedural defects, among which are those revealing that State court systems and State judges have been placed in an arena of competition with executive agencies of the State government, including police, correctional, defense and prosecutorial groups, which competition is destructive of the separation of powers doctrine and the independence of State judiciaries, and which competition also fosters the exertion of political pressures on State judges; and

Whereas, because of such serious structural and procedural weaknesses State court systems have not received an adequate share of financial assistance as measured by their critical responsibilities, with the shocking revelation that the States' share of LEAA funding was only 5.12% in the fiscal year 1971 and declined to 3.61% in the fiscal year 1973, in spite of calls by the national Law Enforcement Assistance Authority for State planning agencies to greatly increase the funding allocated to State courts; now, therefore, be it

Resolved by the National Conference of State Trial Judges duly assembled in Plenary Session on the 10th day of August, 1974:

1. 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.

Senator THURMOND. Now I have a few questions I might ask you. I believe you serve as chairman of the Indiana Judiciary Center Advisory Committee to the Indiana Criminal Justice Planning Agency. Is that your title?

Mr. RICHARDS. I am chairman, I was chairman up until August of this year of the National Conference of State Trial Judges. I am chairman of the Indiana State Judicial Center at the present time, which is our State organization for training judges and continuing the legal education of judges.

Senator THURMOND. Have you covered the work or the activities of that committee in your statement?

Mr. RICHARDS. Yes, I have.

Senator THURMOND. Now LEAA funds have been used in such projects as the code administration program, court attache program, a probation project, a public defender project. Have these efforts been beneficial?

Mr. RICHARDS. They certainly have, Senator. I did not want to go into complete detail on the programs that have been beneficial in the country. It has resulted—

Senator THURMOND. All these have been beneficial?

Mr. RICHARDS. Yes, sir, they have.

Senator THURMOND. Do you feel the money has been well spent in all these programs?

Mr. RICHARDS. Not only has the money been well spent, we are now paying for it on our own, Senator. We are one of those that the LEAA provided the seed money. I now have a court administrator

who is paid for by the county, not by LEAA funds any longer. We have continued him on.

Senator THURMOND. Now, LEAA has recognized the fact that many court systems do not participate enough in the comprehensive planning process which is essential to the program. What do you think can be done about increasing State court planning capabilities?

Mr. RICHARDS. Senator, I think that is exactly what the Rodino bill and the abstract of this report of the LEAA study team will reveal. We need representation on State planning agencies. In order for the judges to have more input in what goes on in their States, they need to have adequate representation so that they are not out-voted every step of the way, or outfought for the funds.

Senator THURMOND. In certain States the judiciary has refused to participate in the LEAA program or accept LEAA funds. One of the reasons given is that the judiciary is an independent branch of government and should not have to go begging to the Governor and the executive branch for funds.

Do you think that this view is realistic in light of the fact that the judiciary in most States already must go to the executive branch and the legislature to secure support for its regular appropriation?

Mr. RICHARDS. I could say this, Senator. This is not the procedure in Indiana. At least in our State, the judges in our local counties have to go to their county councils for funds. Our State does not fund the entire court expenditures or court budgets as is true in some States. One of the problems you are going to run into is that this varies from State to State. I have discovered that in certain States, the State pays all of the court costs throughout the entire State of the entire trial court system. In our State the county funds and pays all the expenses of the courts in their county.

To answer your question more fully, this is one of the problems that you are confronted with when you say, do you have proper planning. We do not have enough or have sufficient planning nor do we have the representation on those State planning agencies to really get something effectively done for the courts.

Senator THURMOND. Now, Judge Richards, I understand that LEAA has set aside some additional funds to encourage State court planning and to expand State court capabilities. The administration's proposal for renewing LEAA will also allow part B State funds to be used for state court planning purposes and expand LEAA's ability to conduct research in the area of civil, as well as criminal justice.

Do you think these provisions meet the needs of the State court systems, while at the same time permitting the States flexibility in planning and programming?

Mr. RICHARDS. Yes, I do, Senator, and we wholeheartedly approve of those recommendations or any of those amendments.

Senator THURMOND. Well, thank you for your appearance here. We feel that it was very helpful to the committee.

Senator THURMOND. Our next witness is Mr. David Levine of Greenville, S.C. I have had to call Mr. Levine out of order. Mr. Levine, I understand, is a New York native, and has a varied background in criminal justice activities. He has served as public safety director for the South Carolina Appalachian Council of Government.

He has previously worked as a police officer and a criminal justice planner. He served on the Georgia Governor's Crime Commission advisory board and taught criminal justice at Macon, Ga., Junior College. He received his undergraduate degree in criminal justice at Georgia State University in Atlanta, and is currently pursuing a master's degree in business administration at Furman University.

Mr. Levine has been involved in the planning of the new law enforcement center which the Greenville Police Department and the County Sheriff's Department are slated to occupy early next year. He presently serves as director of the Police Service Bureau for Greenville County, S.C. Mr. Levine, does that cover your background?

Mr. LEVINE. Yes, sir, it does.

Senator THURMOND. Would you just give us briefly your views on this subject.

STATEMENT OF DAVID LEVINE

Mr. LEVINE. I have been asked by the regional council of governments in Greenville, and city and county of Greenville, S.C. to make some recommendations in the field of technical assistance to local government. What we are asking is that the Congress and the Senate consider strengthening technical assistance programs to local governmental units. The planning program authorized under part B should provide adequate financial resources for State and regional governments to insure the provision of maintaining technical assistance to local governments.

Currently, in the South Carolina planning programs at the regional level, 85 percent of our time is consumed in the administration of the LEAA program, the paperwork end. An increasing number of local units of government are asking technical assistance, and the administration of the program makes it difficult for us to find time. During the calendar year of 1974, we were able to provide only three units of government with any meaningful technical assistance in evaluating law enforcement or criminal adjustment programs.

While provision of technical assistance should be included as part of the overall planning program, it should be a separate function divorced from the administration sectors. It is the only way the units of government can really ask a regional or State planning agency to provide them with a full-time plan. The idea of regional planning agencies was established so that smaller municipalities in county governmental units could utilize the services of professional planning staff members without having to pay the kinds of salaries that are required of those professions.

Technical assistance should include long-range planning for the police, courts and corrections elements of the criminal justice system.

In South Carolina, considerable LEAA dollars have gone into upgrading law enforcement agencies or upgrading the courts, but there has been no coordination between the correctional arm, the court arm and the police agencies in trying to do something about the total system problem.

Now, strengthening the planning process and providing technical assistance is critical to the success of the LEAA program in South

Carolina. The State and local levels should also consider the quality of the personnel doing the professional planning for LEAA and the Office of Criminal Justice program. The legislation should consider minimum standards, qualifications for professional staff people.

There are some regional agencies—it is not limited to South Carolina; I had the opportunity to do some planning in the State of Georgia, too—where people who have never been involved in a criminal justice agency or the criminal justice field are doing the professional planning for law enforcement agencies or courts. It is not successful in many areas. The legislation that is being considered right now should include a definition of the standards and qualifications of any personnel participating in the planning of programs. The quality of personnel is directly related, as far as I am concerned, to the success of the LEAA project and the success of technical assistance to local government.

Finally, I have been asked to say that the 47 local, county and State—excuse me, local, county and regional units of government in the Appalachian district of South Carolina support the continuation of LEAA at the recommended authorized level.

Thank you.

Senator THURMOND. Does that complete your statement?

Thank you very much. We are glad to have you with us, and we appreciate your appearance.

Mr. LEVINE. Thank you, sir.

Senator THURMOND. I might ask you a couple of questions.

What is included in the area of technical assistance?

Mr. LEVINE. The area is vague, because there are not many planners that are getting involved in it. But what I myself include in it is an evaluation of law enforcement efforts, an evaluation of personnel policies, looking at the operational procedures of a criminal justice agency, providing the judicial reform people in South Carolina, for example, some options as to what they can do in the judicial reform bill; those kinds of technical assistance.

We just completed a study in Spartanburg, which you are familiar with, with upgrading the law enforcement agency there. They are making some massive changes because of that.

There are agencies in South Carolina that do not provide 24-hour police protection. We are interested in upgrading law enforcement to the level where people are getting some quality law.

Senator THURMOND. Mr. Levine, do you feel that all of those who plan programs under LEAA should have a criminal justice background?

Mr. LEVINE. Not all of them. People at the Federal level at LEAA all have diversified backgrounds. You could have lawyers; you could have corrections people. I think they should have some background in the criminal justice field.

Senator THURMOND. Do you feel that those who plan programs should have diversified backgrounds?

Mr. LEVINE. I think they should be planning generalists, but also in specific areas of responsibility.

Senator THURMOND. I think that is all.

Thank you very much.

Senator Hruska is going to be back in a few minutes. I have got to go to another committee. We will be in recess for a few minutes.

[A brief recess was taken.]

Senator HRUSKA. (presiding). The hearing will be resumed.

Our next witness is Dr. Carl Stenberg, senior analyst for the Advisory Commission on Intergovernmental Relations.

Will you identify your associates, Dr. Stenberg?

Mr. STENBERG. Yes, Mr. Chairman.

I am joined today by Wayne F. Anderson, Executive Director of the Advisory Commission, and Dr. David Walker, Assistant Director for Governmental Structure and Functions.

Senator HRUSKA. Fine.

You have filed a statement with us. You may either read it or highlight it, as you choose.

Mr. STENBERG. Thank you.

Senator HRUSKA. It will be placed in the record in its full text.

Mr. STENBERG. I appreciate that.

Our Executive Director would like to make some introductory comments. He will be followed, then, by Dr. Walker and myself, with specific statements regarding the program.

Senator HRUSKA. You may proceed.

[The prepared statement of Wayne F. Anderson, David B. Walker, and Carl W. Stenberg follows:]

STATEMENT OF WAYNE F. ANDERSON, EXECUTIVE DIRECTOR; DAVID B. WALKER, ASSISTANT DIRECTOR; CARL W. STERNBERG, SENIOR ANALYST ON BEHALF OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS ON THE SAFE STREETS RECORD: SOME INITIAL IMPRESSIONS

Mr. Chairman, and Members of the Subcommittee, I am Wayne Anderson, Executive Director of the Advisory Commission on Intergovernmental Relations. I am accompanied by David Walker, Assistant Director for Government Structure and Functions, and Carl Stenberg, Senior Analyst in that division.

The ACIR is a permanent national bipartisan body established by Congress in 1959 to monitor the operation of the American federal system and recommend improvements. Of the 26 Commission members, nine represent the Federal government, 14 represent the State and local governments, and three represent the general public. A current membership roster is attached to our Statement.

We very much appreciate the opportunity to appear before you today to present our initial impressions of the Safe Streets record. Our Commission has a long-standing interest in the Federal government's first major block grant program. In 1970, we issued a report on Making the Safe Streets Act Work which contained an assessment of the early experience under the planning and action grant provisions of the Act. We concluded then that although there had been some gaps in the States' response to the needs of high crime areas, the block grant was "a significant device for achieving greater cooperation and coordination of criminal justice efforts between the States and their political subdivisions." The Commission recommended that the Congress retain the block grant approach and the States make further improvements in their operations under the Act.

Five years later, ACIR staff began taking a second look at the Safe Streets Act as part of a comprehensive study of "The Intergovernmental Grant System: Policies, Processes, and Alternatives." Our interest here is two-fold. First, Safe Streets provides an opportunity to examine the operation of the block grant instrument over a multi-year period, and sufficient time has passed to arrive at some firmer judgments about the program's strengths and weaknesses and to develop strategies for change. Second, the experience of Federal, State, substate regional, and local agencies in planning and programming under the Safe Streets Act can provide important lessons for policy-makers to use in considering new block grant proposals or existing programs in the health, community development, manpower, and social services areas that embody this approach.

For the past eight months, ACIR staff has been gathering data on the operation of the Safe Streets program. We have been assisted financially in this undertaking by both the Law Enforcement Assistance Administration and the Department of Health, Education, and Welfare. In addition to LEAA, we have worked with the National Conference of State Criminal Justice Planning Administrators, National League of Cities, National Association of Counties, and others in developing a research methodology, designing questionnaires, and collecting information. We are now in the process of completing a report containing proposed policy recommendations for the Commission to consider at its November 16-17 meeting. Hence, our statement today focuses on only initial staff impressions of the Safe Streets record. The findings and conclusions have not yet been endorsed by our members, nor has ACIR taken a position on S.2212, the proposed Crime Control Act of 1975, or other related bills. Nevertheless, we hope that our statement will be of use to the Committee and, with your permission, we would like to submit later a copy of recommendations concerning the program adopted by the Commission for inclusion in the record.

The impact of the Safe Streets Act is difficult to assess. Available data on intergovernmental planning, administrative, and financial transactions are sometimes incomplete, inaccurate, or irrelevant. Our staff has employed a variety of methods to obtain a reliable information base. We have made extensive use of LEAA's Grant Management Information System and the States' Planning Grant Applications. We have conducted national questionnaire surveys of all State Planning Agencies, Regional Planning Units, and cities and counties over 10,000 population. And we have taken a first-hand look at the operation of the program in ten States. Each source has its own limitations, stemming from the difficulty in obtaining complete and useful data input. Yet, despite these and other problems normally associated with survey research, our effort has produced a substantial amount of factual and attitudinal information regarding experience under the program which provide a fairly firm basis for assessment.

Our findings indicate that after seven years of operation, the Safe Streets program is neither as bad as its critics contend, nor as good as its supporters state. While a mixed record has been registered, on balance, the results are positive. This is not to say, however, that changes are unnecessary. In brief, the ledger reads as follows:

On the positive side:

(1) *Elected chief executive and legislative officials, criminal justice professionals, and representatives of the general public have gained greater appreciation of the complexity of the crime problem and the needs of the different components of the criminal justice system.*

Although during the early days of the Safe Streets Act, law enforcement related activities commanded the bulk of the attention and resources, gradually a system-wide orientation has developed. This has been largely the result of the intergovernmental and multifunctional framework for communications and problem-solving established by the block grant. It is now almost conventional wisdom that preventing and controlling crime is more than a matter of detection and apprehension, that the efficiency with which offenders are processed and the effectiveness with which they are rehabilitated are vital to enhancing respect for the law, and possibly deterring anti-social behavior. We also know that crime is a complex societal problem which cannot be solved only by investing substantial financial resources in improving the processing of offenders.

In view of the fact that law enforcement and criminal justice agencies have operated in virtual isolation from one another practically since colonial times, the level of understanding that has been achieved to date is no small feat. This "consciousness raising" is a necessary prelude to building a genuine criminal justice system.

(2) *A process has been established for recognizing and reinforcing the intergovernmental and functional linkages in the criminal justice system, leading to better coordination of crime reduction efforts.*

The Safe Streets Act has been a catalyst for police, prosecutorial, court, and correctional activities within individual jurisdictions as well as between cities, counties, and their State government. Elected chief executives and legislators, criminal justice officials, and private citizens are represented on State and regional supervisory boards responsible for planning and fund allocation decisions. This process has been instrumental in achieving greater cooperation in the day-to-day operations of criminal justice agencies and more joint undertakings across functional and jurisdictional lines. It has helped ensure that the

activities supported by Safe Streets dollars are more responsive to community needs and priorities, realistic in light of State and local fiscal capacities, and better coordinated with non-Federally funded crime reduction undertakings. While the goal of a well-integrated and smoothly-functioning criminal justice system has yet to be realized, a solid foundation has been established.

(3) *Safe Streets funds have been used for many law enforcement and criminal justice activities that recipients otherwise would have been unable or unwilling to undertake.*

In addition to "system building," Safe Streets block grant funds also have been used for initiating innovative programs or projects and supporting the improvement of law enforcement and criminal justice agency operations. With respect to innovation, despite early criticisms of the program that too much funds were being spent on routine purposes, particularly in the law enforcement area, the available evidence indicates that the majority of Safe Streets monies have been used to initiate new programs and projects that would not have been launched in the absence of Federal aid. New activity and innovative activity, of course, are not necessarily the same. What is new and innovative for one jurisdiction may be routine and mundane for another. But the important point is that the Safe Streets program has established a mechanism for diffusing ideas and information about approaches to crime reduction and providing resources to enable States and localities to undertake them.

We asked SPA directors to classify the activities supported by Safe Streets funds over the years. Replies from 42 States indicated that nine percent of the programs or projects were considered innovative in the sense that they were demonstrations of new approaches that had never been attempted, and another 22 percent were viewed as innovations that had been tried elsewhere but not in their State. Twenty-nine percent of the programs or projects were classified as generally accepted activities that had already been implemented widely in other parts of the country but not in the responding State. Another indicator here is the action taken by 36 SPAs to establish policies which excluded certain activities from funding and encouraged others. Prohibitions on the use of Safe Streets funds to support equipment and construction projects were most frequently cited. A number of SPAs also have attempted to maximize the reform potential of Federal dollars by setting certain eligibility standards for applicants. For example, Maryland refuses to fund police departments not meeting the SPA's minimum standards for police services. Similarly, in Louisiana and Georgia localities not participating in the Uniform Crime Reporting program are ineligible for Safe Streets assistance. On the other hand, several States give priority to multijurisdictional efforts, particularly in the areas of law enforcement communications, training, and construction.

Regarding the use of Safe Streets monies to support the improvement of State and local law enforcement and criminal justice agencies, a persistent complaint since the program's inception has been that not enough money has been distributed to jurisdictions having the greatest crime problems and that too much has been awarded to police departments. ACIR's 1970 report found that such charges then were largely valid. Since that time, however, a more balanced funding pattern has emerged. A preliminary analysis of LEAA's Grant Management Information System (GMIS) data reveals that since 1969 the ten most heavily populated States have received over 50 percent of the funds, compared with a less than three percent share for the 10 least States. Moreover, larger local units appear to be receiving proportionately more Safe Streets assistance than their population would warrant. Jurisdictions over 100,000 for example, contain approximately 39 percent of the population, yet they were awarded approximately 51 percent of the Safe Streets action funds distributed to cities and counties between fiscal years 1969 and 1975. On the other hand, localities under 25,000 have 37 percent of the population, but received 23 percent of the funds.

Population is only one factor that might be used to assess SPA distribution decisions. Another is crime rates. Using this measure, GMIS and Federal Bureau of Investigation (FBI) data show a close correlation between crime rate and funding for units classified as cities. For example, between fiscal years 1969 and 1975, 57 percent of the Safe Streets monies were awarded to cities over 100,000, which accounted for 57 percent of the total index crimes reported by local jurisdictions of this type. At the other extreme, those under 25,000 contained 27 percent of the population, experienced 18 percent of the reported crimes, and received 16 percent of the funds awarded to cities.

Turning to functional distribution, again we find that a more balanced pattern has emerged. Although there are wide interstate differences in the amounts awarded to particular components of the criminal justice system, overall we find the police proportion declining and stabilizing from two-thirds in FY 1969 to approximately two-fifths by FY 1975. Funding for corrections and courts activities also appears to have stabilized, with the former accounting for about 23 percent of the funds and the latter for 16 percent.

Although GMIS offers the best available national data on action fund awards, we urge caution in using these figures. The amount of subgrant data reported into the system varies from State to State, with the FY 1969-1971 and FY 1975 information particularly incomplete. Furthermore, the criteria used by the Bureau of the Census and FBI to define incorporated and unincorporated places and classify cities are neither clear nor consistent. Hence, while the above may be regarded as useful indicators of funding trends, the data must be considered preliminary and in need of further verification.

(4) *State and local governments have assumed the costs of a substantial number of programs and projects initiated with Safe Streets funds.*

A key barometer of the impact and importance of Safe Streets supported activities is the extent to which they have been "institutionalized" and their costs assumed by State and local governments. In our survey of SPAs, we asked for an estimate of the percentage of projects which no longer receive Safe Streets funds and are continuing to operate with State or local support. The mean percentage estimate was 70 percent—a very high assumption rate—with a range of from 20 to 90 percent. Yet, it should be kept in mind that these figures are only estimates of the SPA directors; they do not represent the results of rigorous empirical investigation.

In an effort to cross-check the information supplied by the States, our questionnaire to all cities and counties over 10,000 probed the extent to which projects that had been initiated with Safe Streets funds but no longer received such assistance had continued to operate with local government support. The responses were consistent with the SPA estimates; the mean assumption figure for the 586 cities reporting was 83 percent of the Safe Streets initiated projects in their jurisdiction, while it was 78 percent for the 319 county respondents.

(5) *Despite a wide gap between the Act's ambitious statutory goals and objectives and what can be realistically achieved under a program accounting for only five percent of total State-local criminal justice outlays, most elected chief executives and legislators as well as criminal justice officials believe that the Federal Government's role in providing financial assistance through the block grant instrument is appropriate and necessary, and that the availability of Safe Streets dollars, to some degree, has helped curb crime.*

A major assumption underlying the Safe Streets Act is that money makes a difference; that is, the more funds made available, the greater the possibility of reducing crime. Does the 17 percent increase in reported crimes in 1975, then, reflect the failure of the program to achieve its objectives? Perhaps so, to some. But the fact that 95 percent of the annual expenditures for law enforcement and criminal justice are made by State and local governments cannot be overlooked.

Safe Streets funds, then, only account for a small fraction of the total resources to fight crime, and they have not achieved a financial impact substantial enough to produce major functional and financial changes. Nevertheless, State and local officials strongly believe that the program has been useful. To some, it has been the source of "seed money" for crime reduction activities that they otherwise would not have undertaken. To others, particularly rural States and smaller jurisdictions, Safe Streets support has been used for upgrading the basic operations of police departments, the courts, and corrections agencies.

While the expenditure of over \$4 billion of Federal funds has not had a long-term effect on reducing crime, most of these officials contend actual crime rates would have been somewhat higher, in the absence of the program. Fifty-four percent of the SPAs surveyed, for example, felt that Safe Streets funds had achieved great or moderate success in reducing or slowing the growth in crime rates. Responses from 774 cities and 424 counties to a question concerning whether crime rates in their jurisdiction would have been greater if Safe Streets monies had not been available over the past six years reflected a similar pattern: approximately one-half indicated that crime rates would have been substantially or moderately greater while one-third noted slightly greater; 17 percent of the city and 13 percent of the county officials reported that crime would not have been greater.

On the negative side:

(1) *Despite growing recognition that crime needs to be dealt with by a functionally and jurisdictionally integrated criminal justice system, the Safe Streets program has been unable to develop strong ties between the component parts.*

Due largely to the historically fragmented relationships between and among the police, judicial, and correctional functions, traditions of State-local conflict and distrust, and the relatively limited amount of funds involved, the impact of the Safe Streets program on developing a genuine criminal justice system has been limited. While elected and criminal justice officials appear to be willing to meet together, discuss common problems, identify ways of addressing them, and coordinate their activities, when the issue of "who gets how much?" is raised the Safe Streets alliance often breaks down. Those who are best organized and most skilled in the art of grantsmanship have tended to prevail at the State level, while others have appealed to Congress for help.

Congress has responded by categorizing the Act and earmarking funds, such as in the cases of corrections and juvenile delinquency, requiring SPAs to use special planning and administrative procedures for these areas. These actions seem to have been taken basically to increase accountability and to achieve greater certainty that grantees will use monies in specific ways. Although we have not found many adverse affects on State administration, they have converted Safe Streets into a "hybrid" block grant and have raised questions about the extent of discretion to be accorded States and localities in tailoring Federal assistance to their own needs and priorities.

(2) *All but a handful of SPAs have not developed close working relationships with the governor and legislature in Safe Streets planning, policy formulation, budget-making, and program implementation, nor have they been permitted to take other steps to become a more integral part of the State-local criminal justice system and to lessen their identification as administrative subunits of the Law Enforcement Assistance Administration.*

Safe Streets is generally perceived as a "governor's program," in that the State's chief executive sets up the State Planning Agency (in 32 States), appoints all or most of the members of the supervisory board, directs other State agencies to cooperate with the SPA, and often designates regional planning units. Most of the SPAs responding to our survey indicated that the governor had displayed an interest in Safe Streets, but had not played an active role in the program. Only 14 governors, for instance, review the annual State comprehensive plan and priorities before submission to LEAA. In five States, the governor chairs the supervisory board. But typically, the governor's influence is exercised indirectly through his selection of supervisory board members and appointment of the SPA executive director.

Though the legislature appropriates matching and "buy-in" funds, makes decisions about assuming the cost of projects, and in 23 States sets up the SPA, its awareness of and substantive participation in Safe Streets has been quite limited, due largely to the fact that the program is still viewed as the governor's. In too many States, the legislature has no real say in planning and policy decisions, yet is expected routinely to fund programs submitted by the governor and the SPA. This lack of legislative involvement makes it difficult to mesh Safe Streets with other State criminal justice outlays, and to exercise effective oversight.

(3) *SPAs have devoted the vast majority of their efforts to distributing Safe Streets funds and to complying with LEAA procedural requirements.*

One effect of limited gubernatorial and legislative participation in the Safe Streets program has been the restriction of SPAs to Safe Streets-related activities, even though the block grant instrument is supposed to address criminal justice in a system-wide context. With few exceptions, SPAs have not been authorized to collect data from other State criminal justice agencies, to prepare comprehensive plans responsive to the overall needs and priorities of the entire criminal justice system, or to review and comment on the appropriation requests of other State criminal justice agencies. Thirty of the SPAs responding to our survey, for example, stated that they were not involved in planning and budgeting for State activities other than those supported by Safe Streets funds. Only 11 reviewed and commented on other State criminal justice agency budgets; nine performed evaluations of some of the State's crime reduction programs; and 15 provided planning assistance to State criminal justice agencies.

The quality of SPA plans varies widely, as does the extent of implementation. Lacking a genuine comprehensive frame of reference, Safe Streets planning has been largely directed to the allocation of Federal dollars. Because the planning and funding processes tend to be closely meshed, many local officials complain that the program has become too immersed in red tape, while several SPA officials contend that too much staff time is devoted to funding decisions and related procedural matters. As a result of these factors, the scope and quality of the planning effort envisioned under the Act is difficult for many SPAs to attain.

(4) *LEAA has been unwilling or unable to establish meaningful standards or criteria against which to determine and enforce State plan comprehensiveness and SPA effectiveness.*

A common complaint of State and some local officials is that LEAA has not developed performance standards for evaluating the quality of State plans and implementation efforts. While reliance on special conditions has been useful on a case-by-case basis, some feel that LEAA's enforcement of State compliance is spotty. A related concern is that the planning guidelines are oriented to form rather than to substance. LEAA seems to be more interested in ensuring that the States incorporate all of the components of a comprehensive plan specified in the Act and put action funds into related functional "pots" than in developing criteria for making qualitative determinations about the adequacy of the plan or implementation strategies. Lacking such standards, effective monitoring and evaluation of SPA performance is difficult.

(5) *Excessive turnover in the top management level of LEAA and the SPAs has resulted in policy inconsistencies, professional staff instability, and confusion as to program goals.*

Turnover of top management has been a fact of life in the Safe Streets program. There have been five LEAA Administrators in seven years; new directors have been appointed to 23 SPAs within the last 12 months. Assuming that the attrition rate will continue to be high, the need for standards dealing with plan comprehensiveness, funding balance, monitoring and evaluation, and auditing seem critical. Otherwise, the problems of inconsistency and uncertainty will persist.

In conclusion, Mr. Chairman and Members of the Subcommittee, the block grant approach taken in the Safe Streets Act has helped to stimulate new and innovative crime reduction activity; to support efforts to upgrade the police, court, and corrections functions; and to bring some system to what previously was a non-system. Much, then, has been accomplished in seven years. Yet, much more can be done to strike a better balance between the need for achieving national crime reduction objectives with the need to maximize the flexibility and discretion of State and local governments in the criminal justice field.

We appreciate this opportunity to present these findings from our ACIR study and hope that they will be helpful to the Committee in its deliberations on this vital intergovernmental legislation.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

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 Conrad M. Fowler, Shelby County, Ala.
 William E. Dunn, Salt Lake County, Utah.

RECOMMENDATIONS ADOPTED AT THE 55TH MEETING OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS ON "THE SAFE STREETS ACT: ANOTHER LOOK AT THE FIRST MAJOR BLOCK GRANT EXPERIMENT," CHICAGO, ILL.

The Commission finds that crime reduction and the administration of justice have been and continue to be mainly State and local responsibilities. Yet, it is appropriate for the Federal government to provide financial assistance to initiate innovative approaches to strengthening and improving State and local law enforcement and criminal justice capabilities and disseminate the results of these efforts; to help support the crime reduction operations of State and local agencies; and to facilitate coordination and cooperation between the police, prosecutorial, courts, and correctional components of the criminal justice system. The Commission concludes that the block grant approach contained in Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, generally has been effective in assuring that the national interest in crime prevention and control is being met while maximizing State and local flexibility in addressing their crime problems. However, achievement of these objectives has been hindered by statutory and administrative categorization and by Federal and State implementation constraints.

Therefore, the commission recommends that:

Functional and Jurisdictional Categorization

(1) Congress refrain from establishing additional categories of planning and action grant assistance to particular functional components of the criminal justice system, repeal the Juvenile Justice and Delinquency Prevention Act of 1974 and subsume its activities and appropriations within the Safe Streets Act, and amend the Safe Streets Act to remove the Part B correctional institutions and facilities authorization and allocate appropriations thereunder to Part C action block grants.

(2) Congress refrain from amending the Safe Streets Act to establish a separate program of block grant assistance to major cities and urban counties for planning and action purposes.

(3) Congress amend the Safe Streets Act to authorize major cities and urban counties, or combinations thereof, as defined by the State Planning Agency for criminal justice (SPA), to submit to the SPA a plan for utilizing Safe Streets funds during the next fiscal year. Upon approval of such plan, a "mini block grant" award would be made to the jurisdiction, or combination of jurisdictions, with no further action on specific project applications required at the State level.

Personnel Compensation Limits

(4) Congress amend the Safe Streets Act to remove the statutory ceiling on grants for personnel compensation.

LEAA Oversight

(5) LEAA develop meaningful standards and performance criteria against which to determine the extent of comprehensiveness of State criminal justice planning and funding, and more effectively monitor and evaluate State performance against these standards and criteria.

State Planning

(6) In lieu of an annual comprehensive plan, SPAs be required to prepare 5 year comprehensive plans and submit annual statements relating to the implementation thereof to LEAA for review and approval.

The Governor's Role

(7) Governors and, where necessary, State legislatures, authorize the SPA to (a) collect data from other State agencies related to its responsibilities; (b) engage in system-wide comprehensive criminal justice planning and evaluation; and (c) review and comment on the annual appropriations requests of State criminal justice agencies.

The Legislature's Role

(8) Where lacking, State legislatures (a) give statutory recognition to the SPA, including designation of its location in the executive branch and the establishment of a supervisory board; (b) review and approve the State agency portion of the States' comprehensive criminal justice plan; (c) include Safe Streets supported programs in the annual appropriations requests considered by legislative fiscal committees; and (d) encourage the public safety or other appropriate legislative committees to conduct periodic oversight hearings with respect to SPA activities.

The Courts

(9) SPAs give greater attention to the needs of the courts, while recognizing their unique constitutional position, by (a) providing for greater participation by representatives of the judiciary on the supervisory boards; (b) increasing the proportion of action grants awarded for the judiciary and for court-related purposes; and (c) establishing, where feasible, a planning group representing the courts to prepare plans for and make recommendations on funding to the SPA.

Generalist Participation

(10) Congress amend the Safe Streets Act to (a) define "local elected officials" as elected chief executive and legislative officials of general units of local government, for purposes of meeting the majority representation requirements on regional planning unit supervisory boards, and (b) encourage SPAs which choose to establish regional planning units to make use of the umbrella multi-jurisdictional organization within each substate district.

**STATEMENT OF WAYNE F. ANDERSON, EXECUTIVE DIRECTOR;
DAVID B. WALKER, ASSISTANT DIRECTOR; AND CARL W. STEN-
BERG, SENIOR ANALYST FOR THE ADVISORY COMMISSION ON
INTERGOVERNMENTAL RELATIONS**

Mr. ANDERSON. Mr. Chairman, I will just try to highlight the first pages of our statement, in the interest of your crowded schedule.

ACIR, as I believe you know, is a permanent bipartisan Commission established by the Congress in 1959 to continuously monitor the inter-governmental system, conduct research, and recommend improvements. Our Commission represents the Federal level with nine members, the State with seven, the local with seven, and the public with three.

Safe Streets is an area in which ACIR has been involved substantially from the beginning. Our Commission did a study and made

recommendations in 1970, when safe streets was a fairly new program, and published a report entitled "Making the Safe Streets Act Work." With the exception of certain recommendations on high crime areas, the report was generally supportive of the act.

And now, 5 years later, as a part of ACIR's comprehensive study of the Federal and State grant systems, we have been able to take a much more intensive look at how the Safe Streets Act has been implemented. Our interest is twofold. Safe streets is the second oldest bloc grant of the five—partnership for health, community development, manpower, and social services are the others—and there is enough experience to draw better conclusions at this time. We believe these conclusions have meaning for other bloc grants that Congress may establish, as well as those that are already in being.

Our staff for the last 8 months has been working on this evaluation. Our statement indicates the names of a number of organizations we have worked with in this effort. We are now in the final report drafting stage of that work. Our Commission will consider the staff findings and recommendations at its meeting on November 17 and 18.

In light of this timetable, we are presenting today only tentative staff findings and conclusions that have not been considered by the Commission. We necessarily stress that conclusions are still in the process of development; only yesterday we conducted a critique session where some 15 very knowledgeable people in the field gave us excellent criticism that will lead to some refinements. But the findings we will present today were not changed in their fundamental direction or essence.

We found the Safe Streets Act very difficult to assess. Numerous kinds of data on planning and management activities are hard to come by on a reliable basis. We have used a variety of methods detailed in our statement, and have taken a most important firsthand look at the operation of the program in 10 States. Those case studies will ultimately be published. Despite the problems, we very much believe that we have amassed a substantial body of factual and attitudinal information regarding the experience under the program which will provide a firm basis for our Commission to assess it.

In presenting the findings, then, Dr. Walker, who has had overall direction of our total Federal and State aid study, and Dr. Stenberg, who has been responsible for the LEAA portion, will present the findings. Dr. Walker chose the positive and Dr. Stenberg the negative.

Mr. WALKER. Thank you. Mr. Chairman, our findings indicate that, after 7 years of operation, the safe streets program is neither as bad as its critics contend nor as good as its supporters state. And our testimony, as our Executive Director just indicated, will reflect these mixed findings. This is not to say, however, that changes are unnecessary.

On the positive side, I would like to highlight five major findings. First: Elected chief executives and legislative officials, as well as criminal justice professionals and representatives of the general public, have gained throughout the 7-year life of the program a greater appreciation of the complexity of the crime problem and the needs of the different components of the criminal justice system.

This has been largely the result of the intergovernmental and multifunctional framework for communications and problem solving established by this block grant. It is now almost conventional wisdom that preventing and controlling crime is more than a matter of detection and apprehension and that the efficiency with which offenders are processed and the effectiveness with which they are rehabilitated are vital with respect to enhancing the law and possibly deterring antisocial behavior.

A second fundamental finding, in addition to this kind of general consciousness-raising result, is that a process has been established for recognizing and reinforcing the intergovernmental and functional linkages in the criminal justice system, leading to better coordination of efforts to reduce crime and improve the administration of justice.

This process has been largely instrumental in meeting at least three basic needs in the system: First, achieving somewhat greater cooperation in the day-to-day operations of criminal justice agencies; second, encouraging more joint undertakings across functional and jurisdictional lines; and, third, helping insure that the activities supported by safe streets dollars are more responsive to community needs and priorities, more realistic in light of State and local fiscal capacities, and better coordinated with nonfederally funded crime reduction undertakings.

A third general finding on the positive side is that safe streets funds have been used for many activities that recipients otherwise would have been unable or unwilling to undertake. In addition, block grants have been used for initiating innovative programs or projects and supporting the improvement of law enforcement and criminal justice agency operations.

The available evidence—and I stress the adjective here—the available evidence indicates that the majority of safe streets moneys have been used to initiate new programs and projects that would not have been launched in the absence of Federal aid. New activity and innovative activity, of course, are not necessarily the same thing. What is new and innovative for one jurisdiction may be completely routine and rather mundane for another.

In our survey of the 55 State planning agencies for criminal justice, to which we received 47 replies as of October 1, we asked the SPA directors to classify the activities supported by safe streets funds over the years. Replies from 42 of the States indicated that 9 percent of the programs or projects were considered innovative in the sense that they were demonstrations of new approaches that had never been attempted, and another 22 percent were reported as innovations that had been tried elsewhere but not in their respective States. Twenty-nine percent of the programs or projects were classified as generally accepted activities that have already been implemented widely in other parts of the country but not in the responding State.

Another indicator, of how the SPA has sought to achieve innovative efforts in the allocation of funds, is the adoption of certain policies. Three kinds of policies are worth highlighting. In some cases, there have been prohibitions on the use of safe streets funds to support equipment and construction projects. One type is the setting of

certain eligibility standards for applicants. For example, Maryland refuses to fund police departments not meeting certain SPA limitations and standards for police services. Another approach, used in several States, is giving priority to multijurisdictional efforts, particularly in law enforcement communications, training, and construction.

Turning for a moment to the jurisdictional impact of safe streets moneys, a persistent complaint since the program's inception has been that not enough money has been distributed to localities having the greatest crime problems and too much has been awarded to police departments.

We found in our survey that a more balanced funding pattern has emerged. A preliminary analysis of LEAA's grant management information system data—and we are aware of the difficulties with that system—reveals that since 1969 the 10 most heavily populated States have received over 50 percent of the block grant funds, compared with less than a 3 percent share for the 10 least populous States. Collectively, the larger cities and counties—over 100,000 population—experiencing more serious crime problems have received a proportion of safe streets funds in excess of their percentage of population and slightly below their percentage of crime rates.

With respect to the functional balance issue, although there are wide interstate differences in the amounts awarded to particular components of the criminal justice system, overall we find that the police proportion has been declining and stabilizing from two-thirds in fiscal 1969 to about two-fifths of the moneys in fiscal year 1975. Funding for corrections and court activities also appears to have leveled off somewhat, with corrections now accounting for 23 percent of the funds and courts for about 16 percent. In light of the earlier testimony, it does no harm to point out that the figures for courts and corrections are roughly commensurate with the total of State and local outlays in those areas. Of course, court expenditures include courts, public defenders, as well as prosecution. So we are using a lump-sum figure here when we cite the 16 percent for courts.

A fourth basic finding: State and local governments have assumed the costs of a substantial number of programs and projects initiated with safe streets funds.

The mean percentage based on replies to our SPA survey was 70 percent, a very high rate, we think, with a range of 20 to 95 percent. Local surveys of cities and counties appear to confirm this finding.

A fifth basically positive finding—which needs to be stressed—is that despite a wide gap between the act's highly ambitious statutory goals and what can be realistically achieved under a program accounting for only 5 percent of total State-local criminal justice outlays, most elected chief executives and legislators, as well as criminal justice officials, believe that the Federal Government's role in providing financial assistance through the bloc grant instrument is appropriate and necessary, and that the availability of safe streets dollars to this degree has helped curb crime.

Safe streets funds only account, then, for a small fraction of the total resources to fight crime and have not achieved a financial impact substantial enough to produce major functional and financial changes.

Nevertheless, State and local officials participating in our surveys strongly believe the program has been useful. To some, it has been the source of seed money for crime reduction activities they might otherwise not have undertaken. In rural States and smaller jurisdictions, safe streets support has been used for upgrading the basic operations of the police departments, courts, and corrections agencies.

While the expenditure of over \$4 billion of Federal funds over the past 7 years has not had a long-term effect on reducing crime, most of these officials contended that actual crime rates would have been somewhat higher in the absence of the program: 54 percent of the 47 SPAs, responding to our survey, for example, felt that safe streets funds had achieved great or moderate success in curbing the growth in crime rates. In our polls of counties and cities, approximately one-half of the respondents gave a similar kind of reply.

These, then, conclude the five broad positive findings with respect to the program.

Now, there are five somewhat negative aspects of the safe streets experience, or at least less sanguine than what I pointed out, that my colleague, Dr. Stenberg, will now present.

Mr. STENBERG. Thank you.

Mr. Chairman, it seems clear at this stage that some of the criticisms that have been leveled against the safe streets program practically since its inception appear to be no longer relevant, particularly with respect to the funding of equipment, hardware and other more or less routine activities by law enforcement and criminal justice agencies. At the same time, some new concerns have arisen with respect to safe streets. They largely reflect differing expectations as to what this program should have accomplished after 7 years of existence. I would like to discuss five basic criticisms made by those with whom we have talked in the course of our research, which are supported by data compiled by ACIR staff.

Let me preface my remarks, though, by saying that these criticisms have to be put in perspective. They have to be considered in terms of at least three factors. First of all, given the nature of the criminal justice system before safe streets, a system that practically since colonial times has been highly fragmented, how much can reasonably be accomplished over 7 years? How long does it take to build a planning profession and planning process in this environment? These are matters that reasonable people may disagree upon.

The second consideration here has to do with the expectations of Congress, as reflected in the Safe Streets Act as amended over the years. The Act contains ambitious goals and objectives. It contains a very real charge to State and local governments to reduce crime and to improve the administration of justice.

And, then, turning to the third consideration, we have to look at the record in light of the fact mentioned by Dr. Walker, that safe streets dollars still account for a small fraction of total State and local expenditures for crime reduction.

Having raised these general concerns, let me then turn to five specific areas. First of all, despite the growing recognition that crime needs have to be dealt with by a functionally and jurisdictionally integrated criminal justice system, the safe street program has been unable to

develop strong ties between the component parts. While elected officials and criminal justice officials appear to be willing to meet together to discuss their common problems, to identify their needs, and to coordinate their activities, too often, when the issue boils down to who gets how much, the safe streets alliance breaks down. Those who are best organized and most skilled in the art of grantsmanship often prevail at the State level, and others appeal to Congress for help.

Congress on occasion has responded by categorizing the act and by earmarking funds, as in the cases of corrections and juvenile delinquency. These actions are quite understandable. They have been taken, basically, to increase accountability and to achieve greater certainty that State and local governments will use moneys in specific ways to meet problems that are of national priority.

In fact, we have not found many adverse effects of these actions on State administration. But when they are considered in light of the block grant concept, and the expectations that surround the use of this instrument, questions may be raised. In particular, to what extent does a hybrid block grant arrangement undermine the discretion and flexibility that State and local governments have in tailoring Federal assistance to meet their own needs and priorities? Second, what is the long-term effect of such categorization in developing a truly coordinated and integrated criminal justice system at the State and local levels?

I would like to make two somewhat related points regarding the State planning agencies, or SPA's, that administer the safe streets program, again, based upon our research.

First, it appears that only a handful of SPA's have developed close working relationships with the Governor and the legislature in safe streets planning, policy formulation, budget making and program implementation. Most of SPA's have not been permitted to take other steps to become a more integral part of the State local criminal justice system and to lessen their identification as administrative subunits of the Law Enforcement Assistance Administration.

Safe streets is generally viewed as the Governor's program in that the State's chief executive sets up the State planning agency, appoints all or most of the members of the supervisory board, directs other State agencies to coordinate with the SPA and often designates regional planning units.

Most of the SPA's responding to our survey indicated that the Governor has displayed an interest in safe streets, but did not play an active role in the program. Governors, of course, are busy public officials, perhaps too busy to become actively involved in this program. To expect such involvement may be naive.

The level of participation may also be a reflection of the relatively small amount of funds available for crime reduction purposes under the act. Typically, the Governor's influence, then, is exercised indirectly through his selection of supervisory board members and the appointment of the SPA executive director.

Turning to the legislature, while this body appropriates matching and buy-in funds, makes decisions about assuming the costs of projects, and in several States sets up the SPA, its awareness of and its substantive participation in safe streets has been quite limited.

Again, this is due largely to the fact that the amounts of moneys are small compared with other State criminal justice outlays. It is also due, I believe to the perception of the program as being the Governor's. In many States then, the legislature has no real say in planning or policy decisions, and yet it is expected to rather routinely fund programs submitted by the Governor and the SPA.

This lack of legislative involvement makes it difficult to mesh safe streets funds with other criminal justice outlays made by the State and to exercise effective oversight of the SPA operations.

The related point here is that the SPA's have devoted the vast majority of their efforts to distributing safe streets funds and to complying with LEAA procedural requirements. One effect of the limited gubernatorial and legislative participation has been the restriction of SPA's to safe streets related activities, even though the block grant instrument is supposed to address criminal justice in a systemwide context.

With few exceptions, SPA's have not been authorized to collect data from other State criminal justice agencies, to prepare comprehensive plans responsive to the overall needs and priorities of the entire criminal justice system, or to review and comment or have other influence on the appropriation requests of State criminal justice agencies.

The quality of State planning agency plans, then, varies widely as does the extent of implementation. Lacking a comprehensive frame of reference, safe streets planning has been largely directed to the allocation of Federal dollars.

Because the planning and funding processes tend to be closely meshed, many local officials complain that the program has become too immersed in redtape. Several SPA officials contend that too much staff time is devoted to funding decisions and related procedural matters.

The complaint that day-to-day administration forces out sound long-range planning is often heard as a result of these factors. It is very difficult to do comprehensive planning of the scope and quality envisioned under the act, given the present constraints upon SPA's.

Turning now to concerns that have been raised with regard to the Law Enforcement Assistance Administration. A common complaint of State and local officials is that LEAA has not developed performance standards for evaluating the quality of state plans and implementation efforts. Reliance on special conditions has been useful on a case-by-case basis. However, even here some believe that the enforcement by LEAA has been spotty.

A related concern that has been voiced is that the planning guidelines tend to be oriented more to form than the substance. According to this view, LEAA seems to be more interested in insuring that the States incorporate all of the components of the comprehensive plan specified in the act and put action funds into related functional pots, than in developing criteria for making qualitative determinations about the adequacy of the plan or the implementation strategies that go with it.

Lacking these standards, effective monitoring and evaluation of SPA performance is difficult. The evaluation of safe streets funded

activities was recognized by Congress in the 1973 amendments as being quite important. But it appears that LEAA, and I should hasten to add many States, need to do more in this area.

Finally, excessive turnover in the top management level of LEAA and the SPA's has resulted in policy inconsistencies, professional staff instability, and confusion as the program goals. Turnover of top management has been a fact of life in the safe streets program. There have been five LEAA administrators in 7 years. New directors have been appointed to 23 SPA's within the last 12 months.

Assuming that the attrition rate will continue to be high, the need for standards dealing with plan comprehensiveness, funding balance, monitoring, and evaluation as well as auditing seem critical to many people. Otherwise the problems of inconsistency and uncertainty will persist.

In conclusion, Mr. Chairman, the bloc grant approach taken in the Safe Streets Act has helped to stimulate new and innovative crime reduction activities. It has helped to support efforts to upgrade the police, court, and corrections functions. And it has helped to bring some system to what was previously a nonsystem.

Much, then, has been accomplished in 7 years. Yet, much more can be done to strike a better balance between the need for achieving national objectives to reduce crime and improve the administration of justice, on the other hand, and the need to maximize the flexibility and discretion of State and local governments in the criminal justice field, on the other.

At our Commission's meeting next month, Mr. Chairman, four alternative policy recommendations for arriving at this balance will be considered. Very briefly, they involve the following.

First, the decategorization of the safe streets program and strengthening of the planning, management, and evaluation capacity of SPA's. This would mean, basically, removing from the act its corrections and juvenile justice provisions, increasing gubernatorial and legislative involvement in the program, focusing and perhaps redirecting SPA planning efforts, and encouraging LEAA to begin making qualitative judgments regarding SPA performance.

The second option would further categorize the act to give greater attention to court needs and to those of urban cities and counties or combinations of these units having high crime incidence. This recommendation would include the efforts which have already been mentioned to further strengthen both the SPA's and LEAA.

Both of these approaches, then, would seek to achieve a better mix of the three principal objectives of the bloc grant instrument that are reflected in the Safe Streets Act: Stimulation of new activities; support for upgrading the operations of State and local law enforcement and criminal justice agencies; and system building in the criminal justice area.

The two other options would focus on one of these objectives. Some have thought that it would be desirable to convert the bloc grant instrument into a project grant which would emphasize, in particular, stimulation of innovative and demonstration programs and give greater attention to the research, training, and education needs in the criminal justice community.

Senator HRUSKA. What kind of grant was that that you suggest instead of a bloc grant?

Mr. STENBERG. You would convert the bloc grant into more of a project grant.

Senator HRUSKA. Project?

Mr. STENBERG. A project grant, sir, that would eliminate the bloc grant entirely. The focus here would be on what some call a National Institute of Justice as independent agency or a unit of the Department of Justice. This approach would basically recognize that the Federal Government is best suited to stimulating research and providing financial assistance to undertake innovative projects at the State and local level, but not to supporting the ongoing operations of State and local criminal justice agencies.

Senator HRUSKA. Do you mean do away with the fund distributions?

Mr. STENBERG. Yes, this would be one option. But, again, we are not taking any position here.

Senator HRUSKA. Do you think that is a very popular option with the Governors and the legislatures of States, and the mayors and the chiefs of police?

Mr. STENBERG. I am not prepared to respond to that as staff, sir. I can say that our data suggests that this would not be greeted with overwhelming enthusiasm.

Finally, and then I will conclude, Mr. Chairman, other people have suggested that instead of the stimulative or system building aspects of the bloc grant mechanism, we should focus our limited resources on supporting the basic operations of State and local criminal justice agencies.

Senator HRUSKA. What is being done with it now?

Mr. STENBERG. This is being done, sir, in addition to the stimulation of new activity and the attempt to build a criminal justice system.

The bloc grant does all three. Some day that since the planning effort has been weak and since crime reduction needs are so great, we should improve the capacity of the components of the system, adopt a special revenue-sharing approach. This would involve allocating the money on a formula basis both among the States and within the States. And, in a sense, instead of worrying about planning and trying to build a system, let us just put the money into meeting basic needs. That, Mr. Chairman, would be the fourth option that we will ask our Commission to consider.

This concludes our statement on behalf of Advisory Commission on Intergovernmental Relations staff, Mr. Chairman. We do appreciate this opportunity to present our findings. We hope that they will be helpful to the committee in its deliberations on this vital intergovernmental legislation. Thank you.

Senator HRUSKA. Well, thank you for this very fine statement, all three of you. And when you do get the results of your November 16 and 17 meeting, will you favor us with copies of your findings, your report, and whatever resolutions you might have.

Mr. ANDERSON. We will transmit those promptly, Mr. Chairman. If I may supplement with just a couple of sentences so as not to leave any impression of staff preference for any of these options.

It should be explained that our Commission requires the staff to present the full range of policy options on whatever subject we research with all of the pros and cons indicated. The members will buy one of these alternates as their recommendation or conceivably many two or conceivably go to a variant we have not thought of. So, it is a very objective laying out of the alternatives.

Senator HRUSKA. That is very much appreciated. And we like to have those things brought to our attention by people who have given an analysis and study as you have from an objective viewpoint.

On page 5 of your report you refer to the fact that law enforcement and criminal justice agencies have operated in virtual isolation from one another and so on.

Tell me what—I do not get it—is it on criminal justice agencies that they are not law enforcement—what do you mean by law enforcement agencies? What are they?

Mr. WALKER. Mr. Chairman, through time relationship between the prosecutors, the judges, and the police—and this goes back to colonial times in this country—have tended to be separate from one another with very little willingness to collaborate in a systematic way.

Of course, the purpose of the bloc grant is to achieve that kind of relationship. We were trying to highlight in this initial paragraph the great goal the bloc grant that is sought in this area. It was to achieve an interrelationship amongst elements of the State and local governmental levels that had not willingly or freely collaborated prior to the time that this act was enacted.

Senator HRUSKA. I do not get it. We have always on this committee and ever since LEAA was born and before that time when we had President Johnson's Committee on Crime Prevention—Law Enforcement, it does not mean only policemen. It means all activities, does it not, the apprehension of those who committed the crime, the prosecutors, the investigators, the courts, the judges, the jurors, the parole officer, the prison system, and so on.

That is what I cannot quite understand: that law enforcement agencies and criminal justice agencies have operated in virtual isolation from one another.

Do you mean by that that the police department does not cooperate with the courts and the courts do not cooperate with the prison system, prosecutors do not cooperate with the jurors? Is that what you mean?

Mr. WALKER. The phrasing perhaps is not as appropriate as it might have been had we said in view of the fact that the various components of the criminal justice system have operated—virtual may be too strong—but in a very independent fashion with respect to one another, this seems to us to be an indisputable fact in terms of the history of crime reduction efforts prior to and since 1968.

Senator HRUSKA. In that regard—on page 7 of your report, there is reference to a consistent complaint since the program's inception that there has not been enough money distributed to jurisdictions having the greatest crime problems and that too much has been awarded to police departments. Of the money that is appropriated to LEAA 85 percent is distributed among the States. Then they in turn distribute it among their jurisdictions. If there is any maladjust-

ment or too much given to big cities or to small cities or whatever, or if not enough is going to the court system, or not enough to the juvenile control and so on, is that something within the control of the Law Enforcement Assistance Administration, or is that a task for each State to shoulder by itself and make its own solution?

Have you any comments on that?

MR. WALKER. When the Commission reviewed the first 19 months of the safe streets program back in 1970, it was our conviction that the approach you have just highlighted, where you leave the discretion with regard to these things to the States and localities operating within the respective 50 State systems, not with LEAA, was the proper one.

The staff here at the present time can make no judgment as to what the Commission will say on it. But the figures on page 8 of the testimony highlight rather clearly that there has been a fairly significant relationship between areas of high crime incidence and the allocation of safe streets funds. So the point that you make, in effect, is reflected in the figures that we have filed.

Senator HRUSKA. Who determines those figures?

MR. WALKER. Some of these figures are based on the GMIS data, and some of them come from our own surveys. We are still trying to refine them, but, to the best of our knowledge, the figures that we have got here on page 8 would indicate that the moneys have gone to areas that have the highest crime incidence, generally speaking.

You see, we raise the charge on page 7, but we try to in effect, modify it, if not refute it, on page 8. The figures on page 8 highlight the fact that the charge, at this point in time, is largely fallacious.

Senator HRUSKA. You refer to Maryland refusing to fund police departments not meeting minimum standards of the State planning agency. And Louisiana and Georgia who do not participate in the uniform crime reporting program are ineligible.

Is that good or is that bad?

MR. WALKER. That is a judgment for those States to make. The result of that has been that, in some instances, a flow of LEAA money to other jurisdictions. The basic point, I think, is the degree to which areas of high crime incidence, in the judgment of State SPA's, have been aided. The figures on pages 8 and 9 on the specific issue of Maryland would indicate that there has been a very heavy flow of money, proportionate if not disproportionate, from State SPA's to jurisdictions with high crime incidence.

Senator HRUSKA. Is that good or bad?

MR. WALKER. In the eyes of those who criticize the program on the grounds that it has gone to areas that have not had high crime incidence, it would be good. From the point of view of those who receive the funds, it is good. But the judgment as to where those funds went were SPA decisions.

Senator HRUSKA. As a matter of fact, LEAA here in Washington has no say in that.

They can prescribe the drawing of a plan, but if it was within the power of LEAA to say you must give the police department 80 percent of this money and so on, then who is going to be running the program?

We cannot do that. We do not want to do it.

The reason I raise that point is that so often some of my colleagues in the Senate get up and say, LEAA has not been effective. First of all, crime has continued to go on. Second of all, the police department in such and such a city is in shambles. And when they do that, and especially when they talk about cities within their own States, Congressmen sometimes do not realize that they are criticizing their own constituents, because they are in charge of running the department, are they not? The police departments, the courts, the jails, the penitentiaries and so on. They have to.

There is reference also to the fact that this is considered a Governor's program and that the legislature does not have any real say on planning and on policy decision. Most people do not think that legislatures should operate police departments or that the Congress operate the FBI.

Now, they can pass laws regarding it, but they should not get too active in terms of management.

What is the real complaint?

Why cannot the legislature pass laws that will determine policy?

Can they do that?

Most States have that power in the legislature.

Mr. STENBERG. Senator, I believe that the problem is, perhaps, best looked at in terms of the expectations of Congress, as reflected in the initial legislation and subsequent in amendments to the act. The Governor has been viewed as, in the words of one former Senator, the captain of the ship as regards law enforcement and criminal justice-related matters. It is his responsibility to coordinate the efforts of the executive branch, to direct them against crime, and to improve the administration of justice. Where the legislature fits into the program is by no means clear.

As a result of the buy-in provisions of the 1971 amendments, as well as other matching requirements, fiscal involvement of the legislature in the program is certainly contemplated. But when it comes to the oversight function vis-a-vis the plans and programs of the SPA, there seems to be some confusion and some very strongly held views.

Senator HRUSKA. That is a pretty severe indictment of the State system that we have in America, is it not?

They do not have confusion about 5 percent of the money that they get for that whole program, and that is all they get. If there is confusion and if there is mismanagement, and if the Governor has no interest, or the legislature cannot tie into it, in an effort that 95 percent of the funds come from within their State, that is a pretty sad commentary on the State organizations.

Mr. STENBERG. As I pointed out in my statement, while the Governors have been concerned about the program many have not been very active in it. Nevertheless, they have watched over. In regard to the legislatures, the type of involvement has been mixed. Some State legislatures attempt to review appropriations for the safe streets on a line item basis. This has generated conflict with the executive branch and with LEAA. Others generally make a lump-sum appropriation.

The point I was trying to make is that in discharging oversight responsibilities for the entire State criminal justice system, where

there is a substantial amount of State revenues involved, some people have argued that it would be desirable for the legislature to become more involved in the safe streets programs to provide better coordination.

Senator HRUSKA. Why do they not become more involved?

Do you know?

Mr. STENBERG. I do not have any one answer, Senator. We have been told that the level of funding does have a great deal to do with this. We have also been told that some of the problems that have been endemic to many State legislatures—they do not meet annually; they have limited staff assistance; there is high turnover, and other factors—are factors here.

But my basic point is that here is a desire in some quarters—and the National Conference of State Legislatures has already supplied testimony to the committee to this effect—that greater legislative involvement should occur, perhaps through the legislature setting up by statute the SPA, to give it some continuity and stability, which would, in a sense, help it deal with the instability problems that occur when Governors change office and SPA directors are replaced. Another type of role might be for certain members of the State legislature to serve on the SPA supervisory body. This already occurs in a few instances. Perhaps the legislature could specify the composition of that body, as in California. Another role has to do with specifically reviewing requests for safe streets appropriations made by the Governor, looking at them in light of the other State public safety and criminal justice outlays. Finally, some suggest encouraging State public safety and other committees to begin exercising more oversight vis-a-vis the safe streets activities.

Senator HRUSKA. Well, thank you very much for appearing. The staff may be getting in touch with you on other questions that might arise as a result of your testimony. We hope that we can call on you for further information and for further reaction.

Mr. STENBERG. We will be glad to work with you.

Senator HRUSKA. Thank you very much.

Our final witness of the day is Mr. Marian Opala, Supreme Court of Oklahoma, Administrative Office of the Judiciary.

I must say in advance, Mr. Opala, that at 1 o'clock we have a very important vote in the Senate, and this Senator is going to have to attend the proceedings. But you may proceed with your testimony.

STATEMENT OF MARIAN P. OPALA, CHAIRMAN, STATE-FEDERAL RELATIONS COMMITTEE CONFERENCE OF STATE COURT ADMINISTRATORS AND ADMINISTRATIVE DIRECTOR OF THE COURTS, STATE OF OKLAHOMA

Mr. OPALA. Mr. Chairman, and distinguished members of this Subcommittee: My name is Marian P. Opala. I am Oklahoma's administrative director of the courts, my State's top judicial bureaucrat. It is in my other capacity as chairman of the State-Federal Relations Committee of the Conference of State Court Administrators that I appear before you today with Chief Justice Howell Heflin of Alabama, my counterpart in the Conference of the Chief Justices.

Our plea to you today is in support of a shift to a drastically different design for funding Federal financial assistance to the courts in the States. To us the status quo has been extremely displeasing for some time. It is intolerable. Though we have not been silent in the past, this, I believe, is the first formal chance we have had to let you know loudly and clearly our firm and determined opposition to the present congressional policy in the courts funding area and to its implementation by LEAA. We ask that you accept our gratitude for affording us this forum we have been seeking for so long.

The change we advocate and ask you to enact into law is embodied in H.R. 8967, authored by Mr. Rodino, and now in the House of Representatives. Our concern, I emphatically note, is not for "a fair share" of every Federal dollar which you may choose to make available, but for the preservation of courts in the respective States as a detached neutral and distinct public service.

Grave danger is to be apprehended from the mechanism by which Federal funds are presently funneled to the State courts. LEAA has virtually ignored and overstepped with impunity time-tested lines separating it—an organ of the Federal executive—from a State court system, as well as those lines which lie between every State judiciary and the SPA—an arm of the Governor. Without so much as a word of congressional disapproval, LEAA has refused, for some 7 years now, to recognize that State courts occupy a position one iota different from any other executive component of what is referred to with boastful arrogance as a system of criminal justice—a system that exists only on paper. Whether by accident or design, Congress has inflicted upon State courts accepting the Federal carrot a budgetary dependence, or servitude one might say, that subjects them to a veritable double layer of combined State-Federal executive dictation.

In this scheme LEAA of course represents the top layer. Its policies are enforced via adoption or rejection of the annual "action plan," via imposition of a litany of "special conditions" and through the ceaseless peddling of prepackaged "standards and goals." The LEAA bureaucrats are ubiquitous on the state scene to guard against any sign of heresy or even unorthodoxy.

SPA's represent the low layer of domination. Without any congressionally mandated judicial quota of representation, there is but a microscopic sprinkling of judicial representatives on every SPA. Moreover, and tragically so, in many instances the persons appointed by the Governor are not even from the top echelon of State-established judicial management service.

The typical SPA has its own "courts planner." Usually it is a person without much experience in the courts, with little sensitivity to its climate and without formal past connection with the State's own judicial management hierarchy.

Until less than a year ago, LEAA did not even admit that anything was rotten in the state of Denmark. When I then questioned Mr. Velde in an effort to gain some recognition for the principle of separation of powers, his answer was typical of the long-standing LEAA attitude: "This Nation cannot afford a separate planning unit for the courts." My reply then and now is the same. If he is right and Congress does back him up, then this Nation can no longer afford and does not merit

a constitutional government. If nothing else does, the debacle of Watergate should strongly counsel Congress in favor of restoring the State judiciary to its traditional position of independence from the executive branch.

Mr. Velde's attitude has changed somewhat since that time. He now tells you he is anxious to let the judiciary have its own planning capability, but he fails to add that his position is still unyielding on leaving the courts under the double layer of combined State-Federal executive domination.

Congress has not seen fit to fashion for the Federal judiciary the same kind of subservience to the executive branch. Since the thirties the U.S. courts have stood congressionally emancipated from the Attorney General, both in planning and managing their own judicial budget. We are here asking you for no less than you have been willing to according the judiciary of our Federal Republic—a first class citizenship based on coequality with the executive branch.

Since 1968, when you passed the original act, there has been a marked changes in the organizational structure of most State court systems. While then courts across this Nation may have been typically as fragmented organizationally as low enforcement, few States, if any, now have a judiciary that is not internally organized into a service of government. There is now in every state an identifiable level of top management responsibility for the courts. The change came as a result of a process, usually effected by constitutional amendment, which transformed us from a collection of discrete, semiautonomous and separately funded institutions or scattered functionaries into a structured branch of the government. This process is known as unification. Its product is the so-called unified court system. The very purpose of unification is to repose in the judiciary the responsibility for internal management of the courts to the end that all available resources—men, money, space and material—may be optimally deployed service-wide.

The present system of LEAA resource allocation through grantsmanship is destructive to the unified State judiciary. Grantsmanship creates undue competition between court levels and between coordinate courts on the same level. Grantsmanship undermines orderly management of priorities. It leaves judicially defined priorities, based on direct knowledge of the needs, subject to the whim and caprice of a frequently indifferent if not hostile majority on the SPA's executive board. Under these conditions management in the courts is impaired rather than fostered. It is well-nigh abdicated to a mob of bureaucrats.

We ask that you recognize the present system makes us uniquely vulnerable and that you accord us the coequal status we feel is constitutionally due. Lastly, we pray that you see the wisdom of H.R. 8967.

Thank you very much.

Senator HRUSKA. Mr. Witness, you have spoken most eloquently for a position we are hearing more and more about from the Conference of State Court Administrators, the Conference of Chief Justices and others.

I do not know how much fault can be laid to LEAA in this respect; 85 percent of the \$800 million goes on a mathematical formula to the State planning agency. The requirement is that a comprehensive plan

embraces all elements of law enforcement. All elements, including the courts, must be given consideration in the distribution of these moneys. If the courts are not getting their fair share, whose fault is it?

Mr. OPALA. Senator, that is a secondary problem. The primary problem is the institutional design. You sired that design. The LEAA is fearful of bucking the Governors, and rightly so. It is a powerful—

Senator HRUSKA. In what way?

Mr. OPALA. In what way?

In mandating that courts receive greater representation on the SPA boards. I told Mr. Velde he would be politically inastute if he tried to apply pressures on the Governors to appoint more and more and more court-type people in the SPA. That would be a political suicide, and I would not expect Mr. Velde to do it.

I feel, honestly—

Senator HRUSKA. Wait a minute.

How can LEAA tell the Governor to put on a planning board—

Mr. OPALA. The present statute does mandate some balance in representation, but it does not specifically—

Senator HRUSKA. The act does. It is in section 202.

Mr. OPALA. But section 202 is unenforceable because it is politically inastute for LEAA to enforce it.

Senator HRUSKA. I do not understand just what pressure can be put on a Governor. He is not responsible to the LEAA, and he will get just as much money whether he pleases Mr. Velde or does not please him, because the money is distributed pursuant to the statute.

Now, as far as the regional and State planning agencies are concerned, "they must be representative"—I am reading now—"of the law enforcement and criminal justice agencies." That includes courts. And if the Governor does not appoint proper representation from the court, go to the State capitol and say, Mr. Governor, we would like to be represented.

Have you done that?

Mr. OPALA. Yes, sir, we have in the past two administrations, I think.

The institutional design you have sired is insensitive to the separation of powers.

Nothing will ever be done by the Governors. The remedy, I am sure, lies with the Congress.

Senator HRUSKA. I still am a little baffled. How can we say that it is affecting the policy that is formulated within every State?

Again, let me call your attention to this. You were here earlier in the morning. There are some \$13 or \$14 billion that are spent on law enforcement efforts by State and local units. Only less than 5 percent of that is distributed through LEAA to help them in their effort. So the State puts up 95 percent.

Now, do you mean to tell me that there is any leverage in there by reason of the 5 percent or by reason of setting aside the separation of powers in the States and so on that can be exerted under that kind of setup, with a mechanical distribution of those funds prescribed in the statute?

Your plan will enable you to do whatever you want to do within your State. And if Oklahoma or Nebraska does not want to recognize the separation of powers, that is for the people of Oklahoma or Nebraska to take care of, is it not?

Mr. OPALA. No, sir, Senator, I beg to differ.

First of all this is not revenue sharing money. The money comes to the States with heavy strings attached to it. Annually, my regional office in Dallas, whose director is here, approves the Oklahoma plan. The regional office does not suggest; it mandates modifications. It has complete and total control over the annual budget that comes out of the 85-percent bloc grant. If it does not like what Oklahoma includes in the action plan, it has a total free control over it. And believe me, Senator, the regional office does not hesitate to exercise it. That is number one; that is the top layer of Federal bureaucracy.

Senator HRUSKA. I did not know that Washington is running the affairs of Oklahoma. I well know it is not running the affairs of Nebraska, I warrant you that. As a matter of fact, I have misgivings as to whether the Federal Government is running Oklahoma.

[Discussion off the record.]

Mr. OPALA. We are beholden to you for your patience and attentiveness.

Senator HRUSKA. Thank you very much.

You have brought a viewpoint that has been increasingly heard and we are glad to have your voice added to it.

Mr. OPALA. Thank you, sir.

Senator HRUSKA. The committee will stand in adjournment until tomorrow morning at 10 o'clock in this same room.

[Whereupon, at 1:05 p.m., the subcommittee was recessed, to reconvene at 10 a.m., Thursday, October 23, 1975.]

AMENDMENTS TO TITLE I (LEAA) OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

THURSDAY, OCTOBER 23, 1975

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met, pursuant to recess, at 10:10 a.m., in room 4221, Dirksen Senate Office Building, Senator Roman L. Hruska presiding.
Present: Senator Hruska (presiding).

Also present: Paul C. Summitt, chief counsel; Dennis C. Thelen, deputy chief counsel; and Mabel A. Downey, clerk to the subcommittee.

Senator HRUSKA. The subcommittee will come to order.

The chairman of the subcommittee is busy with other official Senate duties and asked me to preside.

We will resume hearings on the amendments to the Omnibus Crime Control and Safe Streets Act of 1968.

Our first witnesses this morning will be Mr. Richard C. Clement, president, and Mr. Glen D. King, executive director, of the International Association of Chiefs of Police. Will you please take your places at the witness table.

You have submitted a statement to the committee pursuant to our rules. It will be printed in full in the record, and you may proceed in your own fashion to testify.

STATEMENT OF GLEN D. KING, EXECUTIVE DIRECTOR, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE; ACCOMPANIED BY RICHARD C. CLEMENT, PRESIDENT, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Mr. KING. Thank you, Senator Hruska. I am Glen King. I am here with Chief Clement, who is the president of IACP. We are grateful to you for the opportunity to appear before the committee to offer our testimony. If it meets with your approval I would like, because it is relatively short, to read the testimony of the association. Then, Chief Clement and I will be available for any questions the committee may have.

At the present time, the International Association of Chiefs of Police has over 10,600 members from 63 nations. Most of our membership, however, are State and local law enforcement executives.

from the United States. The IACP represents law enforcement administrators who have responsibility for actual delivery of police services to the citizens of our Nation.

Unlike police service in many other nations, law enforcement has historically been a local responsibility in the United States. Municipalities determine their needs and their priorities and provide for police service accordingly.

Police officers themselves live in or near the communities they serve. They participate in civic activities, both in connection with department-sponsored programs and on their own initiatives. Local law enforcement officers are not an invading army stationed to maintain control of the populace. They are friends and neighbors—and, for the most part, they are active and responsible citizens.

This tradition of local police service is one reason why I doubt that we will ever have a national police force in this country.

I am aware that there have been demands from time to time throughout our history for the creation of a national police force, and there are frequent predictions that circumstances will force us to form such an institution. It is my belief that the creation of a national police force would be destructive to the liberties guaranteed to us under the Constitution, and that most Americans would resist such a step in the strongest possible way.

I am not, however, suggesting that local law enforcement agencies should act in splendid isolation—jealously guarding their own boundaries and prerogatives and refusing to have anything to do with other agencies. A crime frequently involves more than one geographic jurisdiction. Sometimes it involves several States and even several nations. Communication and cooperation among police agencies is an absolute necessity, and this implies a need for regionwide, statewide and nationwide police planning.

Such planning does nothing to compromise the essentially community-oriented character of the police service—and certainly does not establish a national police force.

It does, however, greatly increase the efficiency of law enforcement in the apprehension of criminals who cross jurisdictional lines, encourage the exchange of methods and technology to combat crime, and help prevent the unnecessary duplication of services.

Even before the creation of the Law Enforcement Assistance Administration in 1968, many of us in police service saw the necessity for Federal involvement in crime control. We recognized that there was certainly a danger of losing a degree of local autonomy in dealing with any Federal agency, but we came to the conclusion that the potential benefits to local police departments and to the nationwide anticrime effort in general far outweighed the possible dangers.

Now that the LEAA has been in existence for 7 years, one thing we can say with certainty is that the concept of community-based policing is stronger than ever. Many of the grants provided by the LEAA have been used for programs designed to achieve this goal.

Programs like team policing are intended to decentralize the police function even further. They are based on the principle that an officer's familiarity with the neighborhood—and the neighborhood's familiarity with the officer—will serve to increase police effectiveness.

There are many other strategies with similar goals, and they are gaining increasing acceptance. The LEAA is providing the funds necessary for the testing and implementation of many of these strategies.

There is recurring criticism of the Agency for giving a higher priority to equipment research and dissemination than to person-related activities. It is true that during the Agency's early years a very high percentage of the total funds went to the purchase of police equipment.

It should be borne in mind, however, that at that time a good many departments were financially unable to obtain even the basic equipment they needed. So in those years, a great deal of LEAA money did go for hardware or programs which were fairly elemental in nature.

In more recent years, what I would consider to be a more healthy balance has been achieved. Overall, of 85,000 projects sponsored in 7 years by the LEAA, only about a quarter have been devoted to hardware.

I believe that some LEAA funds should continue to be devoted to equipment, including the development of new products that will make an officer's job safer and make him more effective.

It is far too easy to dismiss new products by referring to them as gadgetry. The fact is that a great many of the newly developed types of police equipment are more than paying for themselves in terms of the results they are producing.

I don't think we should stop research into lightweight body armor and improved identification equipment, for example, simply because some people see them as luxuries. If these so-called gadgets can save the lives of police officers or improve their crime prevention efforts, then by all means let us dedicate adequate time and money to their development.

It should be clear from the foregoing that the IACP supports the continued existence and full funding of the Law Enforcement Assistance Administration. It is absolutely essential that there exist some continuing source of research funds for law enforcement in this Nation. We simply cannot afford not to examine the methods of policing in this country. We have to know whether what we are doing is because the methods are effective or just because we have always done them that way.

Research is expensive and time consuming. But it is a necessity.

The real luxury is to continue a trial-and-error approach to law enforcement.

Throughout my entire career in law enforcement, for instance, I have heard about the importance of selective law enforcement. The theory is that you address certain problems by concentrating your resources in those areas. You control accidents, for example, by making use of saturation patrols. You prevent theft by assigning a large number of men to particularly vulnerable areas.

The fact is that this method may be effective or it may not be. There is certainly enough evidence that it may not be effective to indicate a pressing need for research in this area.

The LEAA provides a mechanism for facilitating law enforcement research, and this is undoubtedly one of its most important functions.

The continuing use of the bloc grant approach to fund LEAA projects is particularly favored by the IACP. Under this approach, the States themselves decide what individual projects should receive what levels of funding. This increases the efficiency of the system since the States are most aware of local capabilities, resources, and problems. It is a way of insuring that the LEAA will be more responsive to the needs of its clients.

It is in the area of research, nevertheless, that the IACP feels compelled to criticize the current procedures of the LEAA. The Agency has not adequately drawn on the great amount of knowledge and experience within the police profession itself. The firms that have been called upon to do the research have certainly been competent enough, but they have to frequently lacked the kind of practical knowledge that members of the police profession can provide.

I do not contend that only the police are capable of doing police-oriented research, but by the same token I don't believe that police professionals should be barred from a full share of participation merely because they are police administrators. Yet that has often appeared to be the policy.

The LEAA is helping to solve some of American law enforcement's most pressing problems. But, before it can realize its full potential, it must become more actively involved, through funding, in a searching examination of current law enforcement procedures.

A study of patrol practices—and particularly what it termed preventive patrol—was recently conducted in Kansas City under a grant from the Police Foundation. The subject of patrol is an extremely important one—and a well-drawn and broadly based study could have been a very useful tool for police administrators. Unfortunately, this particular study left unanswered far too many questions and was based on far too small a sample to make it of any practical use in law enforcement planning.

This is precisely the kind of study the LEAA should be funding, making use of an adequate sample under a carefully controlled research design. The LEAA is the only existing source of sufficient funds to do the kind of study that would be of real benefit to the police, and it is exactly this kind of project that the Agency should be initiating. And, as I said earlier, the study should be conducted as much as possible by the police themselves. The Kansas City effort is not useless by any means, but I am convinced that it would have been possible to create a far superior one under the aegis of the LEAA.

It is the further position of the IACP that the Deputy Administrator or a Deputy Administrator of the Law Enforcement Assistance Administration should be an active police professional or someone with extensive police experience. I believe this is a reasonable position in view of the tremendous influence the LEAA has on America's police agencies. Such a person would not act as a lobbyist for police interests, but would be in a position to supply police expertise when important decisions were being made.

Another area in which improvement is needed is in the dissemination of the results of LEAA programs. LEAA has a Grants Management Information Service which is supposed to inform the criminal

justice system about projects which have been undertaken, where they have been performed and what the results have been. This service, however, has not been sufficiently effective, and there have been far too many instances in which a chief of police in one city has applied for funding for a project and had his application accepted, only to find that the same project—or a very similar one—has already been completed in another part of the country.

Some of the confusion may have been the result of the Agency's very well publicized problems of administrative tenure. In the 7 years of the Agency's existence, there have been seven Attorneys General and five LEAA Administrators.

It would indeed be surprising if there had not been major problems of continuity and organization under these circumstances. And it is obvious that a greater degree of stability would enormously improve the performance of the LEAA.

The Law Enforcement Assistance Administration has, on balance, exerted a beneficial influence on American law enforcement. This is the view of the IACP, and I believe it is also the view of most police professionals—although I sometimes hear complaints from those who have not been most directly involved with the LEAA about the amount of redtape that accompanies any contact with the agency. This problem, it seems to me, is a problem of the entire Federal system and not simply of the LEAA.

One of the most outstanding successes of the LEAA effort is the law enforcement education program (LEEP). It is my belief that this program has provided more lasting and far-reaching benefits than almost any other Federal program.

The LEEP program has been a major influence on the increased availability of higher education in the field of law enforcement. In 1968, only 234 educational institutions in the United States offered law enforcement degrees of any nature. By 1973, the number had risen to 933—and, in 1975, more than 1,068 are participating institutions.

At the present time, more than 97,000 students are being educated with LEEP assistance. Eighty percent—or more than 76,000—of these students are criminal justice agency employees, and more than 60,000 are sworn police officers.

It is, I think, safe to say that without LEAA assistance education to this extent would not be available to the Nation's law enforcement officers. The ultimate effect of this program is inestimable.

It is the position of the IACP that with more stability in the agency's leadership, more participation by the police in upper echelon decisionmaking as well as actual research, and an increased capacity to identify and analyze the larger issues facing the police profession, the LEAA will increase in stature as a major force in the war against crime in the United States.

Thank you for your attention.

Mr. Clement and I will be happy to answer any questions you may have.

Senator HRUSKA. Well, thank you, Mr. King. It is with some gratification that I find your statement addresses itself to hardware and the criticism of hardware being excessively acquired. Also the field of gadgetry.

Who buys the hardware of the police departments of this Nation? Does the LEAA buy the hardware?

Mr. KING. Frequently it is bought, Senator, with LEAA funds, but it is never bought directly by LEAA itself. It is bought by the police agencies themselves on the basis of their perceived needs. So the decision to buy the hardware is not one that is made at the Federal level but one that is made at the local police agency level.

Senator HRUSKA. Would it be practical for the LEAA to set a mathematical formula saying x percent of the funds from LEAA must be spent for hardware?

Mr. KING. I think it would not be practical because I think it would not address the conditions that exist within these specific agencies. One agency might need a very limited amount of its funds spent for hardware because it already had what it needed. Another agency might need a very large percent. So I do not think there could be developed a broad percentage guideline that would be applicable to all conditions. I think it would not.

Senator HRUSKA. Of course, the reverse could be true, could it not, that if the regulation was that x percent must be invested for hardware, presumably the LEAA then could also say at a later time you must not spend more than x percent and that might be very low. And then that would be doing two things, would it not? It would be totally impractical and also it would amount to running the police departments from Washington, D.C., and Washington is not noted for its efficiency in trying to run agencies that are removed from Washington, even sometimes the agencies that are in Washington.

I am glad you addressed yourself to that. So many people think it is smart and fashionable to say, oh, yes, but they are wasting money on hardware—

Mr. KING. Probably—

Senator HRUSKA [continuing]. Without getting into the facts of the situation.

Inquiry has been made and when you say overall 85,000 projects sponsored in 7 years by LEAA, only about a quarter have been devoted to hardware.

Mr. KING. Yes, sir.

Senator HRUSKA. Would you consider that in proportion and reasonable?

Mr. KING. I think given the conditions that existed throughout the 7 years, it is not impractical and it is not unreasonable. I think it would not be perhaps appropriate at the present time that 25 percent overall be allocated because I think the needs are not at the current time in that direction, but I think we have to look at the experience of LEAA in the light of the times during which the service they provided was given. And I think it was not inappropriate at all at that time.

I would also suspect, if I may add this, that many of the people who are most critical of the needs of the police agencies for hardware have not themselves been police officers and have not seen on their own experience the need for the hardware that exists. Take, for example, a simple thing like shoes. I have seen recently, Senator, as you have, complaints made about research of a policeman's shoe.

Well, that seems to be a very minor thing when we view the overall criminal climate of the United States, but if you are a police officer standing on a traffic corner for 8 hours or walking a foot beat for 8 hours, this becomes very important and so I suspect the perspective from which you are viewing something may have something to do with the relative importance of it.

Senator HRUSKA. You referred to the experiment in Kansas City under the grant from the Police Foundation for patrol practices. Can you elaborate on that, just describe a little bit what that involves.

Mr. KING. Yes.

Senator HRUSKA. And what is the Police Foundation? Is that your organization?

Mr. KING. No, sir, it is not. The Police Foundation is a subsidiary of the Ford Foundation. It was established approximately 6 years ago to disseminate funds of the Ford Foundation for police-related activities. It is located here in Washington, D.C. A grant was given by the Police Foundation to the Kansas City Police Department to do a preventive patrol experiment, and they selected three relatively small segments of the City of Kansas City. In one of the segments they used as a patrol area, they made no change. In another of the areas they diminished the patrol. And in a third area they increased the patrol over a relatively short period of time.

There was no appreciable difference in the crime rate in those three areas with heavy patrol, with medium patrol, and with the light patrol. There were several factors that were, in my belief, not taken into consideration in the research design. There was no announcement made that there was no patrol in the area from which the patrol had been withdrawn. So the belief in the minds of the criminal and the public would be that the patrol existed there. The belief that the patrol was there probably had as much effect as the presence of that patrol itself. The belief that it was there continued to exist. This was known on a very limited basis. It was done because there were limited men available to it. It could have been done much better with a larger sample, with a more broad-based approach to it that LEAA could have accomplished better than the police foundation.

This is just one example. There are many practices in law enforcement that police administrators are beginning to question. For example, I am not certain whether the community relations programs, and community services programs that we were using, are effective or whether there are others that could be more effective, whether our approaches to traffic control are effective or whether there are other procedures that are more effective, and I think we are beginning more and more in law enforcement to realize the absolute necessity of research into this area. And this is beyond the capability of any individual police department to fund. It has to be done, I think, with assistance from the Federal Government, and I think LEAA is an excellent vehicle by which this assistance can be given.

Senator HRUSKA. Reference has been made in your statement to the rapid, rather high degree of turnover in the personnel of LEAA. Yesterday we had testimony which drew attention to that fact, but they didn't limit it to LEAA. They pointed out also that the State planning agencies have had heavy turnovers. For example,

new directors have been appointed in the last 12 months to 23 State planning agencies. Is that good or is it bad?

Mr. KING. Whether it is good or bad, I think it is a fact of political life. I think at the State level, the State planning agency director, by whatever name it is known in the individual State, is an appointment of the Governor, and I think most of the time when a new Governor comes in, he is going to appoint his own people to the positions, including the appointive positions at that State level. So I do not honestly see any ability to establish any great degree of stability at this level. I think it has to be established at the Federal level because there are fewer positions here, and it is more closely controlled and more amendable, I think, to create the kind of stability that has to exist.

In direct answer to your question, I think for the ultimate benefit of the criminal justice planning effort, it is not desirable that that number of new State planning administrators should be appointed in that brief period of time.

Senator HRUSKA. There was a time in the police profession, was there not, when the turnover was much greater than it is now? Has it not leveled off in most communities in America to a career status rather than political status?

Mr. KING. I wish I were able to answer that affirmatively, but I am afraid my belief is that largely there is still not adequate tenure, particularly in the larger cities. In some of the smaller cities there is fairly good tenure, and the appointment of the police chief seems to be on merit rather than on the basis of political consideration, but in the larger cities, still I think there is too great an element of the political responsiveness rather than merit responsiveness.

Senator HRUSKA. Would you comment, Mr. King, on the criticism of LEAA, that police programs have received too much emphasis and in fact, too great a percentage of the funds? That suggestion has been made by several witnesses here.

Mr. KING. I do not honestly believe, even though I am a representative of the police and I am very admittedly biased in favor of the police, I do not believe that the full program of LEAA ought to be directed toward the police. I think improvements made in corrections and in the courts have just as great an impact on the proper functioning of the police department as improvements made within the police system itself will have, and I do not believe that all of the funds of LEAA ought to be devoted to the police. We are very simply, though, mathematically, I think the largest segment of the criminal justice system. It is estimated now that there are close to 500,000 police officers in this country and approximately 20,000 known police agencies. This in sheer number so far outweighs the numbers of the other systems that I think this argues very strongly in favor of a heavy percentage of LEAA funds going to the police.

I think the total criminal justice system functioning nationwide, the total expense of the system is about 65 percent a police expense, and I think it is not illogical or improper that a proportionate amount of the LEAA funds be devoted to the police.

Senator HRUSKA. And that it would be greater in percentage than some other aspects of law enforcement—courts or prosecutors for example.

Mr. KING. Yes.

Senator HRUSKA. Just by the sheer massive personnel problems which police departments have. Is that the point you make?

Mr. KING. Yes, it is; yes, it is.

Senator HRUSKA. LEAA is supporting a program to help deal with the so-called career criminal. Do you feel there is a need for that type of program and more emphasis upon it?

Mr. KING. I am absolutely convinced there is. The figures change from year to year, but the last figures I saw showed that about 65 percent of the people who were involved with the criminal justice system had been involved previously. Crime in the United States, to a very great degree, Senator, is a problem of the recidivist, and I think that it is entirely appropriate and I think that it is entirely necessary that very serious consideration be given to the person who has been involved with the system before, who has had the opportunity through the system to reform, to be rehabilitated, to be corrected, and who proves by his repeated involvement with the system that he is not responsive to this. I think that very clearly there have to be programs with major emphasis directed toward him.

Senator HRUSKA. There have been some proposals to further categorize the LEAA program by specifying how certain funds should be spent. We have had during this series of hearings, for example, the viewpoint expressed that in the courts we ought to set up a special fund for the courts so they could prosecute better, that they have been sort of a forlorn aspect of law enforcement. What do you think of these proposals to add additional categories of funding?

Mr. KING. I am not sure, Senator, that it could be set up in such a way that it would be more responsive to the actual needs that exist than examination by responsible people within LEAA would provide. Rather than having arbitrary percentages set by people without exposure to the actual problems, and to be followed regardless of what conditions developed, I believe I would rather trust the good judgment of people of experience and good will within the Agency to make those determinations for themselves by examining the conditions that exist. I would not like to see arbitrary limits set.

Senator HRUSKA. Do you think the State of Pennsylvania, for example, would have a better idea of the percentage which should be allotted to courts rather than LEAA or maybe even Congress?

Mr. KING. I think very clearly it would, and that is one of the major reasons we support the block grant program so that the 85 percent of the LEAA funds are disseminated not directly by LEAA itself but by the states which have the greatest specific knowledge about the conditions that exist there.

Senator HRUSKA. There is language in our present law that there should be a preference and a high priority given to urban areas with a high crime rate. There should be a lot of attention and considerably more discretionary funding for such areas. What comments would you have on that? What has been the progress in the past couple of years?

Mr. KING. As you know, the LEAA fed some fairly large sums of money into a program beginning, I think about 3 or 4 years ago, I think the total originally designated to that was about \$160 million. with 20 large cities in the United States with high crime experience. I think this provided some benefits. I am not sure honestly under that specific program whether the cities themselves were prepared to utilize effectively the sums of money they received and whether there was an adequate conceptualization of the program by LEAA in the beginning. I think regardless of the experience of that, and I do not intend to imply that I think that program was a failure, I think it did provide some real benefits, but I think there is a need to identify those cities where the crime experience is the heaviest and to be responsive to that appropriately by LEAA. I have no quarrel with this. I also do not argue against the retention of sums of money by LEAA to be used in discretionary programs. I think it is necessary also, and I think the 15 percent that LEAA retains to be used in discretionary ways by the Agency itself is desirable, and it ought not to be discontinued.

I think the balance that exists now is a relatively good one.

Senator HRUSKA. Some of that 15 percent is devoted to technical assistance to police departments, is it not?

Mr. KING. Yes.

Senator HRUSKA. Would you describe some of those efforts of technical assistance, give us some examples?

Mr. KING. There is a program now in existence, the technical assistance program, where two contractors are available to the law enforcement community to provide on request services of a technical nature to the police department. It is relatively low in its funding. It is more of a procedural nature than a conceptual nature. They address nuts and bolts kinds of things rather than any broad-based activities of police agencies. It has been helpful, I think, to the agencies.

I do know that LEAA has under plans now a much broader-based technical assistance program that is designed to use to a greater degree the expertise and abilities of the people in the regions, to make available to a police agency that needs it, assistance from people within a State or within a region rather than bringing it in from a national basis. I see no problem with this.

I think the technical assistance needs of the departments are very clear and are easy to identify, and I think the activities of LEAA have been generally responsive to those needs.

Senator HRUSKA. What about the coordination between the police departments and the courts and corrections areas? What comments would you have on that? There are some programs sponsored by LEAA to facilitate that correction procedure, and so on.

Mr. KING. Yes. There have been several programs that I know of personally that LEAA has funded in this area. I might say that the Omnibus Crime Control and Safe Streets Act of 1968 really for the first time in this country defined the criminal justice system. We knew without ever having really articulated it that the police and the courts and the corrections and the prosecutors and the defense constituted a loosely organized system and that what we did impact on each other. We know that from our own experiences.

But the concept of a system, an inter-depended system, really was structured for the first time with the Omnibus Crime Control and Safe Streets Act of 1968. Very honestly it is still not adequate in its application, and the police still go too much their own individual ways as do the courts and corrections without adequate regard for the effects of their own activities on the programs of the other agencies.

LEAA, I think, is trying to correct this and has undertaken programs that have brought practioners from each of these components together for dialog, and there have been programs; too, that have been more structured programs for this purpose, that have been designed to improve the responsiveness of the police as they affect the courts.

Senator HRUSKA. President Johnson's Commission on Crime, of course, brought out one thing that everyone knew, but did not know the statistics on, and that was an aspect that you have already referred to, the fragmentation of the law enforcement process.

It has been said that LEAA has some very strong points, and one of them is that for the first time in American history as a result of LEAA, every State now has a comprehensive plan that takes into consideration all factors and all aspects of law enforcement. Do you find that the impact of that self-survey by each State is helpful in enhancing cooperation between police and courts, for example, and courts and corrections, and things of that kind. Have you observed that?

Mr. KING. Yes. I think it is helpful, and the State criminal justice planning agencies have had a coordinating effect because most of the people who serve on this have a direct involvement in one way or another with the criminal justice system. They are either legal, in the legal field, or they are courts or they are police, and this is coordinated. It also has called for an agency within the State with specific responsibility for planning criminal justice activities, for the first time.

Now, beyond the coordinating benefits that we derive from this, I think the simple fact that there exists a State planning agency or an agency at the State level responsible specifically for criminal justice activities in the State, has got to be beneficial to the total system.

Senator HRUSKA. There is a place to go now, is there not?

Mr. KING. Yes, there is.

Senator HRUSKA. When something is out of joint or emphasized too much or not enough. There is a place to go.

Mr. KING. Yes, there is.

Senator HRUSKA. Mr. Clement, have you any comment? When did you assume the duties of president of the IACP?

Mr. CLEMENT. On September 17, this year, sir. And I would like to comment in relation to some of the smaller departments throughout the United States. As a matter of fact, I guess the good Lord likes us, he made so many of us, and a lot of us are small departments and we need an agency such as LEAA. We need to be able to go to a centralized agency within our own State to find out what is going on throughout the State and for State planning.

You know, it is a shame that we can, with confidence, get into a piece of metal, very thin, go 7 miles in the air, 550 miles an hour, without a doubt that it came from the lowest bidder, and have no fear, but we have fear to walk to the mailbox to get our mail, that in some places we would be mugged, we would be raped or we would be robbed. I think it is only through the efforts of an agency big enough that can help the smaller departments.

I can remember back—almost 30 years a police officer—in years gone by I had to make a deal with the local towing agency in order to get tires from wrecks to put on the police cars in order to keep going. Now, that is in the past, and I think that is where in the beginning LEAA, as far as equipment—that no longer exists with the exception of very, very minute percentage of departments, but LEAA has been a tremendous asset in the field of communications within departments and within interdepartments, and as far as within the counties and within the State, and also as far as State to State.

So speaking as a chief of police, we need very desperately for the Federal Government to assist. We do not want the Federal Government to take over by any means, but we do need assistance.

Senator HRUSKA. Well, thank you very much, both of you, for your appearance here.

Senator HRUSKA. Our next witness is Milton G. Rector, president of the National Council on Crime and Delinquency.

STATEMENT OF MILTON G. RECTOR, PRESIDENT, NATIONAL COUNCIL ON CRIME AND DELINQUENCY; ACCOMPANIED BY ANN PARKER, ASSISTANT DIRECTOR, NATIONAL CAPITAL OFFICE, NATIONAL COUNCIL ON CRIME AND DELINQUENCY, WASHINGTON, D.C.

Senator HRUSKA. Mr. Rector, will you identify your associate for the record?

Mr. RECTOR. Thank you, Senator. My associate is Miss Ann Parker, assistant director of our National Capital office here in Washington, D.C. and also what the National Council on Crime and Delinquency refers to as its action department. This office has administrative responsibilities over our five regional offices in different parts of the United States.

Senator HRUSKA. You are the president of the National Council and then Miss Parker—

Mr. RECTOR. The assistant director of the National Capital office in the National Council's action department.

Senator HRUSKA. We welcome both of you.

Mr. RECTOR. Thank you.

Senator HRUSKA. You have filed a statement with the committee and attached to it are a number of appendices. This statement will be placed in the record in its entirety. The appendices will be incorporated into the files of the committee. Such portions thereof as the staff decides will be useful in the hearing we will use. The rest will be useful in our work.

You may proceed with your testimony.

Mr. RECTOR. Thank you.

Senator HRUSKA. Do you want to highlight it or read it into our record?

Mr. RECTOR. I would prefer to highlight it in deference to your time. A few points—

Senator HRUSKA. And as you go from page to page, if you do skip a page, tell us what page you will be reading from so we can follow you better.

Mr. RECTOR. All right. Let me say first that the National Council on Crime and Delinquency, for which I serve as president and chief executive officer, is basically a citizen organization. We have a membership varying between 45,000 and 50,000, of whom about 10,000 in any one year are dues-paying members from professional fields, law enforcement, police, corrections. The remainder are lay citizens who support our work throughout the Nation, and I serve as executive officer of a board of directors mostly of lay people now constituting 95 members from around the United States.

I also served personally representing the NCCD as a member of the National Advisory Commission on Criminal Justice Standards and Goals. Our board has felt it important that we serve to help implement the recommendations of that National Advisory Commission and has adopted many of their goals as the priority goals of this organization.

I would like to discuss first from page 2, but making some references that are not on the page, sort of a general introduction, in carrying out our board's position that as a nongovernmental organization we play a strong and constructive role as a monitoring or constructive critic of the public criminal justice system and provide for Congress and legislatures data that they might use also in monitoring the system. So while what I say might seem to be critical, it is intended in a constructive way and to help improve a thrust given criminal justice in the United States by the Law Enforcement Assistance Administration.

We see and observe LEAA in relation to a current trend of other Federal agencies to carry out the concept of new federalism, of strengthening the ability of local managers to determine policy and coordination for all services for their people, to develop an increased capability for planning and priority setting at the local and State level, and of course, with that means a capability for assessment of what works and what does not work and what services are effective and can be coordinated with other human services. And we see a very strong thrust in new federalism to maximize citizen participation at city and State level in seeing that shared revenue mixed with State and local tax dollars gets to the programs which can most effectively deal with the problem—in this case, crime.

In looking at LEAA's efforts to help the criminal justice system become a better and more interrelated system, we have found it having great difficulty in carrying out the intent of Congress and its own goal, that capability in planning for an interrelated system at city and State levels really be enhanced. You mentioned in your questions to the president of the IACP the problems of turnover.

We were concerned this past year to see that the National Association of State Criminal Justice Planning Administrators set an award given to those who have served 5 years, and we bring to you a sense of concern and a need for developing a career service and a stability and capability in city and State criminal justice planning.

We have seen, since President Johnson's Crime Commission, tax dollars in the criminal justice area increase from about \$4.5 billion a year in 1967 to almost \$15 billion a year by the end of 1974. Within that period, an increase in police services costs went from \$3 billion a year to \$8 billion a year. And still we have seen the input of LEAA through technical assistance and through development of standards and goals to increase the effectiveness of that expenditure have very little impact on local and State planning capability.

I am not criticizing LEAA's efforts in this, except to say that somehow this should be greatly enhanced. A billion dollars a year of an LEAA budget cannot do much to influence expenditures at state and local level and Federal level of \$15 billion a year. On the other hand, unless a way is found to move criminal justice planning from just grant administration, which is basically what it is at city and State level, to where the 5 or 6 percent of input from Federal grants and shared revenue really begin to have an impact on the total funding of State and local money for criminal justice services, we will not see a comprehensive plan.

For example, we have had staff in Portland, Oreg. assessing what one of the high crime impact cities, with special funding, has been doing. Some very good things have been happening, but the 3-year termination of grants is approaching. Planning capability has not been developed to where reallocation of funds has gone into programs that have demonstrated themselves to be effective through LEAA funding. Therefore, we are seeing the programs gradually beginning to phase out with a real fear that when the funding from Federal funds is limited, there will be no impact left, and the local programs will go back to where they were before.

As a part of planning, we have great concern that criminal justice planning, State and local, is not linked as yet with planning for other human resource services. Our associates in police and other criminal justice areas state frankly that criminal justice is a reaction to crime and until it can link with mental health, health, education, other social source services within the cities and States, we will not have a protractive system really dealing with the basic issues of crime that well will lead to its reduction.

I want to say here, too, Senator, which we mentioned in testimony before other committees, that until the Federal Government itself develops the same kind of planning commission concept for comprehensive planning between Federal criminal justice agencies, the locus in which LEAA sits as a Federal agency does not give it help in terms of its own planning base and its own planning philosophy. We do not see any mandate in the omnibus crime bill, which we strongly recommend should be there, that the Federal agencies themselves should have a Federal commission and have to come up with the kind of comprehensive plan which the States

and local cities are wrestling to develop. I think any of us who criticize that, recognize the period of evolution that we must go through in governmental change, but we do feel the Federal Government can set a better model for planning than it has.

Again, as briefly as I can, we address in our statement, on page 3, LEAA and its discretionary funds—these are funds over which it has autonomy and responsibility for allocating. We have under Miss Parker's supervision in our central office a national students intern program with many universities—political science, law and other schools throughout the nation—who help us analyze every State plan and all the records of LEAA relating to their allocation of both block grants and discretionary funds. We urge Congress to help LEAA develop a better management capability so they not only know where their funds have been appropriated, but they can provide oversight committees of Congress with very accurate statements of how those funds have been expended.

I will not spend time on the references to 1973 which incidentally was the only year for which we could find in LEAA's offices reasonably complete data reports on the moneys that had been allocated and how they had actually been expended—49 percent went for police and corrections; 9 percent for courts; 16 percent for research and evaluation. We found a great improvement since these hearings in 1970 when we reported that of 18,000 projects we looked over, we found only two with any kind of an assessment program. Now we find that all have some kind of an evaluation component. However, we find LEAA in the central office strapped for lack of personnel to audit the assessments of their own discretionary projects and unable to disseminate information on those which have worked or which have not worked. Therefore to date we must say that the monitoring by LEAA of its own discretionary funds is still quite useless.

And then, of course, we have a concern that only 9.2 percent in 1973 of LEAA discretionary funds went for a priority to the juvenile justice and youth crime area which all crime statistics indicate is one of the major areas facing this Nation in terms of crime problems.

I would like to touch upon the block grant program of LEAA in closing, and I refer to my statement on page 7. Here, as you know, is where 85 percent of the funds Congress gives to LEAA are expended.

I know the determination for policy and coordination and priority setting is to be made at the local level, but still those of us who sat on the National Advisory Commission on Standards and Goals felt that there should be monitoring power within LEAA which it in turn could use to enhance its own technical assistance roles and hopefully, that would increase help to States and cities. But we find that the States and cities are not reporting very accurately to LEAA. LEAA cannot keep up with the data that does come in from the States and give feedback to the States as to the known inaccuracies, and really perform congressional intent of review and approval of State plans before they get the funds.

At the present time all information we have indicates that the plans from cities and States are only for information purposes,

and they are really not serving for program review and direction and help to States and cities to improve their planning capability.

We strongly recommend in prior testimony and in this testimony that criminal justice planning get more leadership. In talking with some State Governors we sense a frustration with attempts to link State criminal justice planning to other State appropriations and city appropriations for priority setting and fund allocation. We sense a frustration that makes some want to do away with State planning capability and just pass money through directly to the cities. We would hate to see that happen because so many services, particularly in more of the rural States, must have a strong State leadership component. But we would recommend that State and city planning commissions have strong citizen representation, that there be citizen advisory boards for the actual policy and priority determination for where these funds will go.

I know LEAA's problem is getting more money into the courts. The States have not come in with plans requesting this. When you sit with State planning agencies, the courts often are not there. They have been one of the last agencies to develop strong administrative officers. So therefore they need more technical assistance. But they also need citizen input to overcome some of the biases of professionals in the field and to see that acceleration of determination of guilt or innocence takes place, to see the prosecution and court decision-making is improved, and that a far larger share of LEAA money goes into that area.

In the legislation pending, I have, starting on page 11 of my testimony, referred to several bills which are pending which relate to the omnibus crime bill and to LEAA particularly. I join with our associates, the International Chiefs of Police Association, in urging a strengthening, not a decrease, in the LEEP funds, the education assistance funds, and would suggest that if that were done within the present LEAA program, Senate bill 460, which would make more funds available in the training area, would not be needed.

Primarily we address ourselves, at the bottom of page 11, to Senate bill 2212. One of the problems of LEAA, as Congress knows even better than we, has been a continuity of leadership and if at the Federal level, as at the State level, there could be built a career merit system program, then we strongly urge that the administration not be placed under the Attorney General of the United States but that it be retained within its present structure.

We strongly urge on page 12, part C, section 4, of this Senate bill that the allocation of funds not be made in relation to high criminal justice activity or reported crimes. We have seen with the efforts of the FBI to improve the police reporting system and the victimization reports of the Bureau of Census, with LEAA leadership. There is great disparity between reports of crime, reported by victims and crimes reported by police. Portland, Oreg., was one of the best examples this past year when a 17-percent increase in felony crimes was reported by police, very much like the national average, but a rerun on the sampling of crime victims in Portland under the Census Bureau victimization concept indicated that crime may actually have gone down. So until we really get

a better way of measuring crime and the results of criminal justice activity, we would urge that the allocation of funds be related to citizens-led and professional-led planning components of State and local government rather than based on a formula relating to high crime activities.

We suggest, and this refers to a previous recommendation, that LEAA funds not be awarded to Federal agencies as provided in part B, section 402(b), paragraph 10 of this bill unless Congress would in the omnibus crime bill also demand that the Federal agencies—police, courts, corrections—submit to LEAA the same comprehensive plan for Federal agencies for review and approval that it now mandates for State and local governments.

Over the years the NCCD urged LEAA to give more attention, more funding to the juvenile justice area. Finally, in frustration for the absence of leadership from LEAA we worked with Congress in the development of the Juvenile Justice and Delinquency Prevention Act of 1974. We are concerned that part F, section 7 of this bill would do much to eliminate the thrust of the 1974 Juvenile Justice and Delinquency Prevention Act, and particularly the section that states that a level of funding achieved in 1974 should at least be retained with funds coming into the juvenile justice field.

Very briefly, we have in summary four major recommendations. One, a national supervisory board to oversee a national comprehensive planning effort for LEAA. No. 2, a requirement that Federal criminal justice agencies develop a comprehensive planning capability and that there be a strong citizen advisory board at the Federal level over that planning agency.

We recommend in No. 3, an amendment to the existing act to change present State advisory boards to supervisory boards. This could be done by putting at least 50 percent lay citizen members on the criminal justice planning commissions or committees at State and local level.

And then, of course, we restate the importance of priority to juvenile justice and delinquency prevention. If we are really serious about delinquency prevention, it does mean that criminal justice planning will have to link and coordinate with planning for social, housing, education, mental health, other human resources services at the State and local level.

Thank you, Senator, for giving me this time.

Senator HRUSKA. In regard to juvenile delinquency, I turn to page 4 where you make a breakdown of the fiscal 1973 program. How much are we engaged in semantics in that field? Of the money, 21 percent is for police activity. What part, roughly, of the incidence of crime in America is to be found in juvenile crime, from the age of 15 up to 21, 22? Do you know?

Mr. RECTOR. In other words, what percentage of total police activity is directed toward juvenile and youth crime.

Senator HRUSKA. There are breakdowns on that subject, are there not?

Miss PARKER. Yes, there are, but we wanted to make clear in analyzing State plans that a bloc grant plans submitted by the State,

are very vague and it is police and they don't really differentiate in terms of how much—what activity, what portion of the police went into juveniles, and what portion went into just adults. So what we have done, we have only listed areas that were specifically directed toward or the plans that specifically said juvenile programs. So in this particular category, we would assume that police would cover the juvenile too.

Down at the bottom of page 4, these are programs that relate specifically to juveniles.

Senator HRUSKA. By label?

Miss PARKER. Right.

Senator HRUSKA. But what percentage—I come back to my original question—what percentage of the overall crime is to be found as having been perpetrated by ages, say, from 15 up to 22? One of the justifications for part F, the Juvenile Delinquency Prevention and Control Act, is that the bulk of crime is found to be committed by juveniles. Now, there are some lurid figures and it was on that basis that the idea was posed we ought to have a particular department dealing with juvenile delinquency control problems.

Now, what percentage can you guess, or can you furnish it for the record?

Mr. RECTOR. We will give you our best data for the record.

Senator HRUSKA. There are studies available, and if you can help us out a little bit, that would be helpful.

Mr. RECTOR. We can help you out.

Senator HRUSKA. Now, my point is this. Let us say it is one-third. I think it is more than one-third. Why isn't a part of that 21 percent for police work regarded as work among the juveniles and directed to the juveniles? Does that make sense?

Mr. RECTOR. It does make sense that it is police activity directed toward the juveniles. But I think the important study which has influenced the shaping of the juvenile act was the—is the work done at the University of Michigan indicating that crimes committed by all youths encompass about 90 percent of all youths and less than 8 percent of the youth who admit to committing crimes are actually contacted by police. The other thing is that in the past 10 years, we have seen police and juvenile court activity on noncrimes by youths increase from 30 percent to a little over 52 percent of total police contacts. So the Juvenile Justice Act, and LEAA responding to it, has put a strong mandate going with its funds out to the States to get out of the juvenile justice system those youngsters who have been coming in for all kinds of things—runaway, truancy, petitions by parents where no crime or no delinquency is concerned. We are strongly urging continued leadership in this area by LEAA to help the agencies to divert out of the 8 percent which are officially contacted by police. The University of Michigan research also shows that those who do admit to crimes and do not go through the juvenile justice system, when followed up in later youth, have a far better record in staying away from criminal activity than those who were arrested and went through the juvenile justice system.

We will provide you with the data from these research programs because they have great significance, I think, for the future of LEAA and its linkage to the other human resource services and

the educational systems. There have been some indications in the Federal budgeting for States and local cities that while money for criminal justice has been going up quite sharply, that money in the education and mental health and housing areas, and so forth, is going down. I mention that only because it definitely relates to the amount of youth crime.

Senator HRUSKA. Well, the percentage of juvenile offenders in the total crime picture is very substantial.

Mr. RECTOR. It is.

Senator HRUSKA. And when in the table of statistics you have on page 4, when it is said the police are getting \$28 million, the courts \$11 million, and corrections \$37 million and all of that is ascribed to adult activity, well, that is simply not true. Do the policemen disregard the juvenile? Don't they arrest him? Aren't they tried? Aren't they put in correctional institutions and so on?

What I am trying to say is when you ascribe \$28 million worth of funds to police and call it adult, I do not think that is a true figure.

Mr. RECTOR. I would—

Senator HRUSKA. It is not a true figure in that regard or as to courts or as to corrections because there are many juveniles in that category that are being taken care of by the courts, corrections, and by the police.

Mr. RECTOR. Yes, Senator. These are breakdowns received from LEAA in answer to our questions.

Senator HRUSKA. I know they are. But why are they called the adult?

Mr. RECTOR. That is—

Senator HRUSKA. Why are they called the adult?

Mr. RECTOR. That is the way—

Senator HRUSKA. Do they disregard juveniles?

Mr. RECTOR. No; but that is the way they are classified.

Senator HRUSKA. I understand, but are they properly classified. That is what I want to know. Do the police disregard juvenile activities and juvenile offenders to the tune of that \$28 million of activity?

Mr. RECTOR. No; I am certain they do not.

Senator HRUSKA. I am sure they do not. I am questioning, therefore, when you come up with only \$12 million under the label juvenile as opposed to \$119 million which is labeled adult, I have serious question in my mind that that is a proper allocation for funds for the purposes that are labeled here. I do not see how it can be.

Miss PARKER. The correctional institutions are listed under juvenile in terms of the juvenile institutions per se in which we have \$680,360,000. You see, under the section of juveniles—

Senator HRUSKA. Which item is that? Correctional institutions?

Miss PARKER. Yes. For specific juvenile—

Senator HRUSKA. That is right. That is a label. But what part of the corrections item of \$37 million is devoted to housing and trying to rehabilitate and to correct juveniles?

Mr. RECTOR. Senator, let us get our staff together with the LEAA staff from whom we got the data to see if further breakdowns or

guesses, fairly accurate guesses, which is I am sure what they would be, could be broken down. I think you are asking a very pertinent question and I think the data coming in from the States should be able to tell you this.

Senator HRUSKA. We have been trying it for a long time, and in the consideration of the juvenile delinquency control bill which is part F, as I remember it, the point was constantly made that a small percentage of only police funds and of law enforcement funds is devoted to juveniles. That is not true. It just cannot be true because if \$28 million of these block grants is spent on police work, a large part of that money goes to treating juvenile offenders, and yet it is all classified under adult. And the same thing is true particularly of courts and corrections.

Mr. RECTOR. Well, corrections is far more easy to break down, as are courts and prosecutions. In the area of police, if you have 52 percent of youth arrested by police as reported by police, then you could, it would seem, take this amount of money and say 52 percent is directed toward youth. That would not be a true figure. You could get into a large police agency indicating 40 percent of its arrests are of youth, but when you get into total allocation of money and training and the small amount of training in the total academy program going toward youth work, toward the staffing of the police juvenile bureau, and so on, I can understand LEAA's problem the same as ours. It is just hard to make that sort of a breakdown in relation to number of arrests. But I am not unaware of your question and your concern that money going for adult services also touches upon problem youth.

The thrust of the Juvenile Justice Act in LEAA for leadership in that area, we would hope would be primarily in diversion to the keeping out of the justice system youngsters who have not committed crimes. The juvenile and family courts of America today are spending far more time on welfare matters, social matters, education matters, that they are not equipped to deal with than they are on juvenile crime matters. We look forward to LEAA's leadership to help turn this around.

Senator HRUSKA. Very well. The preparation of this statement evidences a lot of hard work, much tedious work dealing with statistics, and so on. It is going to be very valuable to us as a reference.

Mr. RECTOR. And I must say the total openness on the part of LEAA staff is appreciated in making their computer runs available to us and State planning agencies where we have found great gaps in the data in LEAA's library, then going through our regional offices directly to State planning agencies and their willingness to help build this statement so it would help you and your committee in your oversight hearings.

Senator HRUSKA. Thank you both for coming and testifying.

[The prepared statement, with appendices, of Mr. Milton G. Rector follows:]

STATEMENT OF MILTON G. RECTOR, PRESIDENT, NATIONAL COUNCIL ON
CRIME AND DELINQUENCY

Gentlemen: The National Council on Crime and Delinquency appreciates the opportunity to discuss with you the Omnibus Crime Control and Safe Streets Act of 1968, as amended, its past performance, its expectations, and its potential.

As most of you know, the NCCD has been interested in the act from its very inception. We have been both its greatest supporter and its greatest critic. Our involvement has been based not only on our interest in the future of the act, but also in our own charter, which charges us, as a private citizen-controlled agency, to monitor public sector activities of crime control policy and practice.

Since our founding in 1907, the NCCD has argued for a rational, realistic, and planned approach to the crime problem. Much has happened since that time—sometimes the movement has been progressive, and sometimes we have slipped backward. It is within this context that we wish to discuss the act and the proposed amendments.

As this subcommittee knows, the issue of federal involvement in law enforcement dates from the 1920s, when Congress recognized that the crime problem had grown—or the country had grown—to such proportions that the unrelated city, county, and state criminal justice agencies could no longer cope with the problem alone. The federal government intervened in a very limited manner when it set up a number of federal criminal justice agencies that dealt originally with intrastate aspects of the crime problem. The well-founded respect for the separation of powers between the federal and local governments discouraged further intervention.

Since that time many things have happened, including a large role for the federal government in delivering social services, criminal justice among them, at all levels. The ultimate value judgment responsibility has been swinging back and forth. At one end of the swing we have seen the rigid categorical programs of the 1950s and 1960s, when all knowledge and power was viewed as centralized in Washington, to more recent times, when all knowledge and responsibility is viewed as held by the smallest units of local government.

Almost at midpoint in this swing is LEAA with its discretionary and block grant funding. LEAA was established as a compromise between the two ends of the spectrum. It proposed major federal involvement in a social issue, but with a sharing of knowledge, power, and responsibility between the federal government and the state and local governments.

The first issue we would like to address is the effectiveness of this sharing of responsibility for bringing about an efficient, effective, just, and humane criminal justice system within the country.

Before we begin this discussion, we must review our own philosophy. We believe that the criminal justice apparatus is an interrelated system that is equally charged with protecting the state and the individual. As a democracy exists by, of, and for the people, the status of the individual is paramount. NCCD subscribes to the belief that the rights of the individual come first.

We also believe that the criminal justice structure is a system, and it can only be addressed as a whole. To concentrate effort or resources excessively on a single part will weaken and distort other parts of the system.

NCCD also believes that the criminal justice system is the last resort of the society. The other basic elements of society—the individual, the family, societal and religious organizations, social and individual enhancement (education, health, community organization)—are society's first recourse in dealing with its problems. These elements of individual and social justice are the primary factors. Criminal justice is secondary to them; it is more desirable to apply social rather than criminal justice solutions.

We also believe as well that the criminal justice system can and should be a rational process. As such, it can be planned and evaluated. From these efforts responsible judgments can be made about usefulness and worth from both cost and value perspectives. These decisions, in turn, can be based on information developed through social science research that is based on the issues as they really are, and not their symptoms. The ultimate decisions should be made by the consumer of the service, the informed citizen.

We further believe that each government unit is responsible for the stewardship of public funds not only in a cost-accounting sense, but also in a qualitative sense. As a private sector organization, NCCD has a responsibility to monitor this stewardship.

With these precepts in mind, we have studied the activities of LEAA.

The first area we have studied is LEAA as a federal agency. We examined first its direct expenditure of federal funds in the discretionary funding program. In our inquiries, we met an immediate and alarming frustration. LEAA informed us that they had not "operationalized" a grants management system to cover fiscal years 1969, 1970, and 1971. They had only partial infor-

mation, gathered retrospectively, for the funds spent through 1972. LEAA reported that prior to that time, they lacked the internal capability to record the actual funds spent. They had records—not necessarily complete—for funding requests and disbursements during those years, but not expenditures. While they could provide a computer print-out of expenditures for fiscal year 1973 that they felt was “reasonably complete,” they had only very sketchy information for expenditures of fiscal years 1974 and 1975. As these discretionary funds are relatively straightforward and wholly within the control of LEAA, we are concerned with the lack of information. Certainly it raises the issue of the stewardship of public funds.

TABLE 1.—LEAA DISCRETIONARY FUND EXPENDITURES, FISCAL YEAR 1973 BY PROGRAM CATEGORY

	Sum of bloc dollars spent by all States	Expenditure as percent of dis- cretionary funds
Adult:		
Police.....	28,324,856	21.5
Courts.....	11,403,697	8.6
Corrections.....	37,326,733	28.3
Research/evaluation.....	20,544,124	15.6
Legislation.....		
Hardware.....	6,871,879	5.2
Data systems.....	11,407,430	8.6
Prevention.....		
Miscellaneous.....	3,600,667	2.7
Subtotal.....	119,479,386	90.7
Juvenile:		
Correctional institutions.....	680,260	.5
Community-based alternatives.....	6,249,426	4.7
Prevention.....	3,121,499	2.4
Data system.....	1,326,790	1.0
Research.....	585,428	.4
Administration.....	294,880	.2
Subtotal.....	12,258,383	9.3
Total.....	131,737,769	100.0

We have examined the expenditure of resources for fiscal year 1973 (see Table 1 on p. 4) and found an unbalanced allocation of resources, with adult programs weighing heavily at the expense of juveniles. Police and corrections received a disproportionate (21% for police plus 28% for corrections, equalling 49% of available resources) share of the resources, with the intervening adjudicatory component, the courts, receiving a minor share (9%). Since these are interacting functions of the primary system, we cannot understand the imbalance. As the courts serve to join police and corrections subsystems, it is only logical to give them comparable resources. To fail to do so is to create a bottleneck that will generate problems throughout the entire system.

A second noteworthy area is the share of funds spent on research and evaluation. One of the major purposes of the discretionary reserve of funds is to study, evaluate, and disseminate information about crime and delinquency, and LEAA's impact on the phenomena. With this in mind, the 10% expended in this area seems inappropriately small. NCCD is particularly concerned about the evaluation efforts of LEAA. If funds are to be spent wisely, the relative effectiveness of various programs must be known. NCCD has observed that LEAA has made great progress since fiscal year 1970, when an earlier NCCD review found only 2 of 18,038 programs had a reasonably adequate evaluation component. Today, most programs have some sort of evaluation component. However, the effectiveness of this effort is severely limited by LEAA's failure to do more than a superficial audit of the evaluation results. Without this review, audit, and dissemination of findings, the evaluations are largely worthless. Not knowing about the evaluation conclusions is the same as having no evaluation at all.

Finally, we are deeply concerned about the very limited funds expended in the area of juvenile justice. When one considers the widely recognized facts

that half the serious crime is committed by juveniles and that most adult criminals began as juvenile delinquents, we cannot understand the irresponsibly low ratio (9.2%) of funds spent for juvenile justice. As we have repeatedly stated, the overwhelming majority of professional criminal justice experts, and plain common sense, call for putting the resources where the problems are. With this in mind, we cannot understand LEAA's refusal to fund juvenile programs at a much higher level.

Perhaps these inconsistencies in LEAA's funding stem from one of LEAA's major structural flaws. LEAA, while requiring comprehensive planning at the state level, does not have a comparable planning capability of its own. As a result of this structural flaw, LEAA has disbursed its funds with little forethought or plan. Too frequently it has seemed little more than a reed in the wind. Its efforts are highly subject to political needs, whims, and fads. The ill-conceived Pilot Cities and Impact Cities efforts are major examples. Fascination with data systems and "Buck Rogers" technical and electronic hardware are lesser, but equally expensive, fads. It is NCCD's belief that if LEAA had its own comprehensive planning capability, with its own lay citizen supervisory board, it would be better able to resist outside pressures, enhance its responsiveness, and establish the planned continuity of effort that has been lacking since its inception.

We cannot leave this subject of federal-level comprehensive planning without noting that the entire federal criminal justice apparatus suffers from the lack of planning. NCCD strongly urges the federal government to establish a broad comprehensive planning structure for itself, similar to what it requires of the states.

As we have repeatedly argued, these planning structures must reflect the population they serve. Since the criminal justice system serves the people, it is only logical that the planning apparatus be supervised by the citizen rather than the vested interests of the criminal justice community.

Before we leave the discussion of those LEAA programs under the direct control of the federal government, we wish to comment on the recent change in LEAA policy toward the growth and development of criminal justice system personnel. One of the better farsighted LEAA programs was the educational assistance program. This program served not only to upgrade existing criminal justice practitioners, but also to recruit and train bright and able new staff. Although this program is not widely known or spectacular, it expressed a sound investment in the future. Recently the decision has been made to curtail the program sharply. We have not received a satisfactory answer as to why the program was cut, from either LEAA or OMB. We urge this subcommittee to take remedial action and restore this sound long-range investment program.

As this subcommittee knows, the major portion of LEAA's efforts is in the form of the federal-state joint effort under the block grant program, under which 85% of the funds are spent.

The joint effort was much more tightly coordinated in the beginning than it is at the present. The amendments to the 1968 Act reduced the accountability between the federal government and the state programs. The federal government today has only a minor capability to monitor or be accountable for the federal funds expended by the states and localities. It must be recognized, then, that LEAA has little practical control over where 85% of its resources are spent.

The question of monitoring these efforts is a major one. In 1968, soon after the passage of the original act, NCCD's board of directors committed the agency to monitor the expenditure of funds under this act. This we have done for every fiscal year since 1968.

This monitoring effort is complicated by two major deficiencies. The first is that LEAA has never had an adequate system for accounting for the funds spent by the states. In recent years, LEAA has computerized its accounting information, but the data are largely unaudited, vague, and incomplete reports from a variety of sources. LEAA officials have told us repeatedly that the data in the block grant "grant management system" are completely unreliable. Our own observation of the data confirms this. The states do not fully report their expenditures nor do they report them in a manner that allows for a useful review of the expenditures.

We have attempted to find out what the states have been doing, by contacting them directly. Here too we have met with frustration. Few, if any, of the states have any grant management capability of their own. So few states have been able to tell us, and presumably themselves and the federal government, exactly what they have been doing with the block grant funds, that it is impossible to monitor the programs from a national perspective on a state-by-state basis.

As a result, we have tried to monitor the block grant program by reviewing the state plans. This limits our monitoring to reviewing what the states plan to do rather than what they are really doing. Though the procedure has its limitations, in an area devoid of information, it still represents the best information obtainable.

Here, too, there are the problems of administration and control. In the present review, we are limited to fiscal year 1975 plans. Not all states have filed their fiscal year 1976 plans despite the due-date required by LEAA that passed months ago.

In reviewing the fiscal year 1975 state plans, we were initially struck by the deterioration of quality of the planning effort over the years. The information is less complete than in the previous years, reflecting that the plans are filed only for information and not for review and approval.

A complete breakdown of the planning effort on a state-by-state basis may be found in Appendix A. Below we have a summary table of the planned expenditures categorized in the same fashion as done for the federal discretionary programs.

We note (see Table 2 on p. 9) that the state expenditure pattern is somewhat more balanced than the federal expenditure pattern in the police-courts-corrections areas. Though the states continue to spend more on police than on the rest of the system, we have noted a decline over the past few years.

The states have increased their spending for evaluation, from nothing in the beginning to 5.3%. While this is a major increase, it remains far from adequate. The funding level is so low we must question whether the states are able at all to know how effective their programs are.

The states have also shown a growth of spending for prevention over the years. While this effort accounts for only 7.7% of the expenditures, no money at all was spent in this area three years ago.

TABLE 2.—LEAA BLOC GRANT EXPENDITURES, FISCAL YEAR 1975 BY PROGRAM CATEGORY

	Amount	Percent
Adult:		
Police.....	\$102,929,316	28.3
Courts.....	48,145,345	13.2
Corrections.....	67,543,715	18.6
Research/evaluation.....	19,343,254	5.3
Legislation.....	193,806	.05
Hardware.....	21,713,810	6.0
Data systems.....	26,478,611	3
Prevention.....	28,095,943	7.7
Subtotal.....	314,434,800	86.5
Juvenile:		
Correctional institutions.....	5,778,001	1.6
Community-based alternatives.....	23,427,235	6.4
Prevention.....	19,289,895	5.3
Other.....	308,986	.08
Subtotal.....	48,814,117	13.4
Total.....	363,248,917	99.9

In the critical juvenile justice area, the states' performance is better than the federal effort but remains grossly inadequate; 13.1% of the available funds were spent on juvenile justice, of which 6.4% was expended in community alternatives and 5.3% in prevention programs.

Observations of the state planning agencies and their planning efforts find them suffering from the same problems of fads and discontinuity as the federal program. An interesting vignette concerning this lack of continuity is the award given out by the National Conference of State Criminal Justice

Planning Administrators: this award is given to any state planning administrator who has kept his job for five years. To date, only a meager handful have won the award. We don't know if there is a comparable award for a national administrator who has kept his job for 12 months.

To deal with this problem, the NCCD recommends the same solution we have for the federal structure—creation of a citizen supervisory board. It is only through this board, and its links to the general public, that a consistent, comprehensive program can develop.

Another weakness of the state planning effort is its failure to meaningfully address the planned expenditure of nonfederal funds in the criminal justice area. The original intent of the effort was to use the planning effort to bring together the totally uncoordinated efforts of state and substate programs. The block grant funds were meant to help state and local units of government better their existing systems and plan their local tax dollar expenditures more wisely. Here, the state planning effort has largely been a failure. Instead of being a planning agency for existing and new programs, it has become a source of money to supplement and supplant local funds. The typical SPA is more of a funding agency than a planning agency. As such, the long-range impact of such program planning efforts is minimal. It is NCCD's conviction that to create citizen supervisory boards will correct this major problem.

In addition to reviewing the activities of LEAA, this subcommittee is considering a number of amendments to the crime act. We would like now to review and comment on these amendments in the order of their introduction.

S. 460. Although this bill is not formally an amendment to the 1968 act, it is so closely related to the intent of the act it can be considered as one. In NCCD's judgment, this act is not necessary if the Congress takes remedial action to re-establish LEAA's existing education assistance programs. The stated goals and purpose of the act are similar to the LEEP program. If the LEEP program is restored adequately, the proposal would create a redundant program.

S. 1598 and S. 1297. NCCD does not feel that these two bills would contribute to the functioning of LEAA.

S. 1601. This bill itemizes a number of possible areas for demonstration and research. While many of these areas are worthwhile, all could be explored under the existing act. Furthermore, NCCD believes there is a greater need for structural change based on what we know now than there is for greatly expanded demonstration projects.

S. 1875 and S. 2245. These bills add that the elderly and the Trust Territories should be considered in the act. As they represent a portion of the population, NCCD agrees.

S. 2212. This act proposes a number of minor, and several major, modifications in the existing act. NCCD would like to comment on several of them.

Sec. 2. Section 101(a). Proposes to bring LEAA under the policy direction of the Attorney General. As such, it would be responsive to the wishes of that office. NCCD believes that LEAA should not be submerged into the federal bureaucracy. Rather, its activities and accountability should be as close as possible to the Congress.

Part C, Sec. 4. Section 306 (a) (2). This amendment would work at cross-purposes to any effort to develop comprehensive planning at the local level. Currently, the state planning agencies are having trouble enough in becoming real planning agencies. This amendment would only further complicate the issue by setting up yet another uncoordinated funding and program source. Furthermore, basing expenditure allocations on reported crime and high activity will lead to continued and excessive pumping-up of crime statistics. Localities will be encouraged to balloon their reporting so as to increase their potential grant income.

Part D, Section 402 (b), Paragraph 10. This amendment opens the door for LEAA funding of existing federal programs—a questionable move. Certainly the various federal programs could seek Congressional approval for programs directly and on their own. NCCD feels that in no circumstances should federal funds be awarded by LEAA to another federal criminal justice system unless there is a comprehensive federal plan.

Part F, Sec. 7. Paragraph (1), Section 512. This is the most serious amendment in the bill. If enacted, it would do away with the maintenance of effort requirement [Section 261 (b) and Section 544 of the Juvenile Justice and Delinquency Prevention Act of 1974]. The funding levels would be left to

the discretion of LEAA's administrator. As we have documented repeatedly, this would be disastrous. LEAA has consistently failed to provide adequate funding for juvenile justice. These amendments would serve to set back the clock to before the overwhelming passage of the 1974 Juvenile Justice and Delinquency Prevention Act. Not only would this amendment frustrate the will of Congress, but it will also open whole new avenues for supplanting existing LEAA funds and local funds in the name of juvenile justice.

Furthermore, these amendments will clearly serve to bring about an even lower priority for juvenile justice than already exists. NCCD cannot understand those people who consistently voice concern for crime but who equally consistently turn a blind eye to the embryonic criminal stages.

In summary, the various amendments to the Omnibus Crime Control and Safe Streets Act of 1968 offer very little to improve the act, and in some cases would be detrimental. NCCD recommends that the subcommittee consider the following recommendations, which offer some structural changes that could contribute to a major improvement of the act.

Establish a national supervisory board to oversee a national comprehensive planning effort for LEAA. This planning effort would be directed at the expenditure of LEAA's discretionary funds. The supervisory board should be made up of citizens who are representative of the general population.

Require the federal criminal justice apparatus to develop its own comprehensive planning capability to cover all federal areas of criminal justice. This would enable the federal system to serve as a model for the state system.

Amend the existing act to increase the present state advisory board to supervisory boards. The composition of these boards should be representative of the general public, not the criminal justice community. This change would allow the state planning agencies to become real planning agencies, rather than funding agencies.

Restate, in the strongest possible terms, the importance and priority of juvenile justice and delinquency prevention. For it is only in beginning at the beginning that we will even be able to control the crime problem of our country.

Appendices

PLANNED EXPENDITURES OF LEAA BLOCK GRANT FUNDS FISCAL YEAR 1975 AND DISCRETIONARY FUNDS FISCAL YEAR 1973

The National Council on Crime and Delinquency has studied the Law Enforcement Assistance Administration's (LEAA) response to the nation's problems of crime and delinquency. Since LEAA is the primary vehicle for crime reduction through state and local planning agencies, we have analyzed the financial and program planning directions of the nation's 55 jurisdictions through the block grant resources for FY 75 and Discretionary Programs for FY 73.

The accompanying data was collected from the Comprehensive Criminal Justice Plans for FY 1975 for all but eight of the 55 states and territories. We have limited our analysis to the Part C block grant funds submitted to LEAA to substantiate the request for assistance in accordance with the Omnibus Crime Control and Safe Streets Act of 1968, as amended in the Crime Control Act of 1973. The plans for American Samoa, Virginia, Massachusetts, New Mexico, Puerto Rico, and Iowa were not available in the LEAA library at the time of data collection; California and North Carolina listed total funds requested, but not the programmatic areas; thus, data contained herein does not include figures for these states.

The data indicates that of the available \$363,248,917 block grant funds, 28.3% was intended for police; 13.2% for courts; 18.6% for corrections; and a disproportionate 5.3% for research and evaluation. Moreover, only 13.4% of the available funds was intended for juvenile justice programs.

It must also be noted that Research/Evaluation remains a low priority in both block grant and discretionary funds. As stated above, only 5.3% of the block grant funds was intended for this programmatic category, while the FY 1973 discretionary funds show that less than 1% of the juvenile justice funds were expended in this area. In the adult area, we find a remarkable increase of 15.6%.

APPENDIX A—BLOCK GRANT AND DISCRETIONARY FUNDS

The data in Appendix A indicates the percentage of block grant and discretionary funds intended or expended (in the case of discretionary) for police, courts, corrections, research and evaluation, prevention, and juveniles. This chart lists each state's planned allocations in each area and compares them to the allocations of other states. In reviewing this data, one should consider the state's spending rank in light of the state's population. In a state with a low-number population rank (relatively large population), one would expect to find a correspondingly low-number state spending rank (relatively high expenditure).

For example, the state of Arkansas has a population of 2,087,000 which ranks 33 in the population category. Arkansas has the thirteenth highest state expenditure for police and the ninth highest state expenditure for hardware. The implications are that its request for funds in the police and hardware categories are inconsistent with its relative population. It is also significant to note that this state ranks seventeenth in research and evaluation, which is also disproportionate to its population, and it ranks twenty-sixth for adult correctional institutions, data systems, and courts. However, in the juvenile areas, Arkansas has requested no funds specifically for juvenile community-based alternatives, although it ranks seventh in juvenile prevention programs.

Furthermore, this data is helpful in contrasting different states and their spending in each category. Consider the area of police spending in Alabama and Louisiana, both of which are relative in population. Alabama spent \$1,789,106 in LEAA block grant monies and ranks seventeenth in spending on police and twenty-first in population. On the other hand, Louisiana, which ranks twentieth in state population, used \$3,560,834 in block grant monies for police spending. This was the eighth highest expenditure for police. Thus, questions may arise in regards to why Alabama (with a spending rank of 17) and Louisiana (with a rank of 8) should have such a considerable difference in block grant monies spent on police when their population size is relatively the same. The analysis is also appropriate for discretionary funds where Alabama ranks twenty-fourth in spending and Louisiana ranks twelfth. Again, the need for Louisiana to spend at least twice as much for police than Alabama merits consideration.

APPENDIX B—ANALYSIS OF BLOCK GRANTS PER CAPITA

The data in Appendix B provides an analysis of the overall block grant expenditures per capita in each state. This chart lists the amount of funds allocated to criminal justice activities based on the state's population. The significance of this data is that it provides insight into the rationale—or lack of rationale—for directing gross amounts of funds into particular areas.

APPENDIX C—DISCRETIONARY FUNDS

The data in Appendix C gives a detailed listing of funds expended in each of the broad categories, i.e., police, courts, corrections, etc. This data was collected from computer printouts compiled in the Grants and Management Information System (GMIS) of LEAA. This computer printout lists the project title, amount of funds awarded, agency receiving funds, and a short abstract of the project.

There is a possibility, however, that these statistics may have excluded some projects funded through the discretionary program. States are not required to submit an abstract of the programs where discretionary funds are used. Only on a voluntary basis, then, is GMIS aware of all the programs that use discretionary funds. Thus, the second printout may not include all programs supported by discretionary funds. Also, since the states only have to submit an abstract retrospectively, on a voluntary basis, the states are not constricted by any time limit. For this reason the fiscal year 1973 was chosen; very few states had submitted abstracts of discretionary fund-supported programs for the fiscal years 1974, 1975, or 1976. Finally, this analysis does not include the research grants awarded to agencies like NCCD or ABA for research purposes on a nationwide or regional level. Private agencies receiving discretionary funds are listed in Appendix D.

Appendix A

STATES BY SPENDING FOR COURTS

State	State population rank	State juvenile population rank	Bloc grant		Discretionary funds	
			Amount	State spending rank	Amount	State spending rank
Alabama.....	21	21	\$3,202,800	4	\$500,000	7
Alaska.....	51	50	111,779	39	33,334	21
Arizona.....	32	32	700,000	22	225,908	9
Arkansas.....	33	33	519,750	26		
California ¹	1	2			287,601	8
Colorado.....	28	28	188,084	37	40,192	20
Connecticut.....	24	25	792,000	21		
Delaware.....	47	47	424,000	27		
District of Columbia.....	43	45	636,000	24		
Florida.....	8	8	2,531,608	7		
Georgia.....	14	14	3,109,100	5		
Hawaii.....	40	40	336,500	29	52,204	19
Idaho.....	42	41	171,635	38	100,007	14
Illinois.....	5	5	2,445,518	8	2,400,000	2
Indiana.....	11	12	1,598,176	11		
Iowa ¹	25	26				
Kansas.....	30	30	1,116,500	17		
Kentucky.....	23	23	1,484,981	12	145,225	11
Louisiana.....	20	19	1,284,506	13		
Maine.....	38	38	73,128	42	28,000	23
Maryland.....	18	17	959,000	19	900,000	5
Massachusetts ¹	10	10			11,991	26
Michigan.....	7	7	1,182,874	14	141,660	12
Minnesota.....	19	18	1,159,300	16		
Mississippi.....	29	29	1,023,710	18		
Missouri.....	15	16	3,883,740	3	99,890	12
Montana.....	44	42	217,822	34	32,694	25
Nebraska.....	35	35	100,000	41		
Nevada.....	48	48	188,760	36	19,740	24
New Hampshire.....	41	44	300,000	32	101,830	23
New Jersey.....	9	9	2,670,000	6	911,482	4
New Mexico ¹	37	37				
New York.....	2	1	4,754,000	2	3,497,335	1
North Carolina ¹	12	11			527,112	6
North Dakota.....	46	46	192,200	35		
Ohio ²	6	6			1,950,290	3
Oklahoma.....	27	27	828,000	20		
Oregon.....	31	31	270,912	33		
Pennsylvania.....	3	4	2,361,062	9		
Rhode Island.....	39	39	300,419	31		
South Carolina.....	26	24	589,053	25	67,255	17
South Dakota.....	45	43	378,500	28	91,428	16
Tennessee.....	17	20	1,179,907	15		
Texas.....	4	3	5,834,534	1		
Utah.....	36	36	62,467	43		
Vermont.....	49	49			61,985	18
Virginia ¹	13	13				
Washington.....	22	22	345,184	29	13,720	25
West Virginia.....	34	34	692,000	23		
Wisconsin.....	16	15	1,662,576	10	220,000	10
Wyoming.....	50	51	105,000	40		
Guam.....	52	52	62,000	44		
Virgin Islands ²	53	53				

¹ No data available from this State.

² No expenditures reported in this category.

STATES BY SPENDING FOR RESEARCH/EVALUATION

State	State population rank	State juvenile population rank	Bloc grant		Discretionary funds	
			Amount	State spending rank	Amount	State spending rank
Alabama.....	21	21	\$90,000	21	\$427,114	7
Alaska ¹	51	50	-----	-----	108,834	22
Arizona ¹	32	32	-----	-----	150,062	19
Arkansas.....	33	33	125,000	17	-----	-----
California ²	1	2	-----	-----	416,165	6
Colorado.....	28	28	423,208	8	5,624,015	2
Connecticut ¹	24	25	-----	-----	-----	-----
Delaware.....	47	47	114,000	18	-----	-----
District of Columbia ¹	43	45	-----	-----	-----	-----
Florida ¹	8	8	-----	-----	149,573	20
Georgia ¹	14	14	335,700	12	-----	-----
Hawaii ¹	40	40	-----	-----	-----	-----
Idaho.....	42	41	7,275	30	-----	-----
Illinois.....	5	5	1,214,560	3	243,242	15
Indiana.....	11	12	367,317	10	47,291	25
Iowa ²	25	26	-----	-----	433,248	5
Kansas.....	30	30	80,000	23	25,000	28
Kentucky.....	23	23	2,004,934	2	298,879	11
Louisiana.....	20	19	140,020	16	-----	-----
Maine.....	38	38	97,410	19	28,000	27
Maryland ¹	18	17	-----	-----	-----	-----
Massachusetts ²	10	10	-----	-----	179,500	17
Michigan ¹	7	7	-----	-----	293,300	12
Minnesota.....	19	18	70,000	27	-----	-----
Mississippi.....	29	29	352,925	10	-----	-----
Missouri.....	15	16	385,647	9	921	30
Montana ¹	44	42	-----	-----	324,928	10
Nebraska.....	35	35	95,000	20	372,234	9
Nevada.....	48	48	152,838	15	67,540	23
New Hampshire.....	41	44	72,500	25	26,670	26
New Jersey ¹	9	9	-----	-----	-----	-----
New Mexico ¹	37	37	-----	-----	-----	-----
New York.....	2	1	9,539,000	1	488,010	4
North Carolina ²	12	11	-----	-----	-----	-----
North Dakota ¹	46	46	-----	-----	22,514	21
Ohio ¹	6	6	-----	-----	201,690	16
Oklahoma.....	27	27	526,857	7	-----	-----
Oregon ¹	31	31	-----	-----	4,200,226	3
Pennsylvania.....	3	4	1,202,463	4	-----	-----
Rhode Island.....	39	39	243,800	13	150,999	18
South Carolina.....	26	24	77,818	24	378,464	8
South Dakota.....	45	43	81,000	22	124,439	21
Tennessee.....	17	20	5,000	31	-----	-----
Texas ¹	4	3	-----	-----	-----	-----
Utah.....	36	36	72,042	26	259,756	13
Vermont.....	49	49	-----	-----	50,093	24
Virginia ²	13	13	-----	-----	253,062	14
Washington.....	22	22	672,046	6	-----	-----
West Virginia.....	34	34	25,000	28	-----	-----
Wisconsin.....	16	15	959,741	5	-----	-----
Wyoming.....	50	51	185,000	14	-----	-----
Guam.....	52	52	10,800	29	-----	-----
Virgin Islands ¹	53	53	-----	-----	-----	-----
Other.....	-----	-----	-----	-----	5,713,665	-----

¹ No data available from the State.² No expenditures reported in this category.

STATES BY SPENDING FOR PREVENTION (JUVENILE)

State	State population rank	State juvenile population rank	Bloc grant		Discretionary funds	
			Amount	State spending rank	Amount	State spending rank
Alabama.....	21	21	\$392,500	12	\$80,000	9
Alaska.....	51	50	82,000	27	-----	-----
Arizona.....	32	32	135,000	18	257,980	4
Arkansas.....	33	33	665,000	8	-----	-----
California ¹	1	2	-----	-----	468,583	3
Colorado.....	28	28	124,823	19	-----	-----
Connecticut.....	24	25	85,000	26	121,254	6
Delaware.....	47	47	245,000	16	-----	-----
District of Columbia ²	43	45	-----	-----	-----	-----
Florida ²	8	8	-----	-----	-----	-----
Georgia.....	14	14	1,593,568	4	-----	-----
Hawaii.....	40	40	204,000	17	-----	-----
Idaho ²	42	41	-----	-----	-----	-----
Illinois ²	5	5	-----	-----	-----	-----
Indiana.....	11	12	1,550,948	5	-----	-----
Iowa ¹	25	26	-----	-----	51,436	11
Kansas.....	30	30	50,000	30	-----	-----
Kentucky ²	23	23	-----	-----	-----	-----
Louisiana.....	20	19	245,638	15	-----	-----
Maine ²	38	38	-----	-----	-----	-----
Maryland.....	18	17	351,000	13	-----	-----
Massachusetts ¹	10	10	-----	-----	-----	-----
Michigan ²	7	7	-----	-----	-----	-----
Minnesota ²	19	18	-----	-----	39,278	12
Mississippi ²	29	29	-----	-----	-----	-----
Missouri.....	15	16	1,127,195	6	93,455	7
Montana.....	44	42	85,100	25	15,564	14
Nebraska.....	35	35	80,000	28	-----	-----
Nevada ²	48	48	-----	-----	-----	-----
New Hampshire.....	41	44	90,000	24	-----	-----
New Jersey.....	9	9	2,264,000	3	859,407	1
New Mexico ¹	37	37	-----	-----	-----	-----
New York.....	2	1	480,000	10	256,650	5
North Carolina ¹	12	11	-----	-----	-----	-----
North Dakota.....	46	46	110,000	22	-----	-----
Ohio.....	6	6	3,459,194	2	86,000	8
Oklahoma.....	27	27	120,000	21	-----	-----
Oregon.....	31	31	564,705	9	-----	-----
Pennsylvania.....	3	4	4,539,845	1	-----	-----
Rhode Island ²	39	39	-----	-----	63,987	10
South Carolina ²	26	24	-----	-----	-----	-----
South Dakota.....	45	43	92,400	23	-----	-----
Tennessee ²	17	20	-----	-----	-----	-----
Texas ²	4	3	-----	-----	705,457	2
Utah.....	36	36	292,000	14	-----	-----
Vermont.....	49	49	-----	-----	22,448	13
Virginia ¹	13	13	-----	-----	-----	-----
Washington ²	22	22	-----	-----	-----	-----
West Virginia.....	34	34	755,000	7	-----	-----
Wisconsin.....	16	15	444,274	11	-----	-----
Wyoming ²	50	51	-----	-----	-----	-----
Guam.....	52	52	65,000	29	-----	-----
Virgin Islands.....	53	53	123,400	20	-----	-----

¹ No expenditures reported in this category.² No data available from this State.

STATES BY SPENDING FOR LEGISTRATION

State	State population rank	State juvenile population rank	Bloc grant		Discretionary funds	
			Amount	State spending rank	Amount	State spending rank
Alabama.....	21	21				
Alaska.....	51	50				
Arizona.....	32	32				
Arkansas.....	33	33				
California ¹	1	2				
Colorado.....	28	28				
Connecticut.....	24	25				
Delaware.....	47	47				
District of Columbia.....	43	45				
Florida.....	8	8				
Georgia.....	14	14				
Hawaii.....	40	40				
Idaho.....	42	41				
Illinois.....	5	5				
Indiana.....	11	12				
Iowa ¹	25	26				
Kansas.....	30	30				
Kentucky.....	23	23				
Louisiana.....	20	19				
Maine.....	38	38				
Maryland.....	18	17				
Massachusetts ²	10	10				
Michigan.....	7	7				
Minnesota.....	19	18				
Mississippi.....	29	29				
Missouri.....	15	16				
Montana.....	44	42				
Nebraska.....	35	35				
Nevada.....	48	48				
New Hampshire.....	41	44	\$30,000	3		
New Jersey.....	9	9				
New Mexico ¹	37	37				
New York.....	2	1				
North Carolina ¹	12	11				
North Dakota.....	46	46				
Ohio.....	6	6				
Oklahoma.....	27	27				
Oregon.....	31	31				
Pennsylvania.....	3	4	80,000	1		
Rhode Island.....	39	39	11,000	4		
South Carolina.....	26	24				
South Dakota.....	45	43				
Tennessee.....	17	20				
Texas.....	4	3				
Utah.....	36	36	72,806	2		
Vermont.....	49	49				
Virginia.....	13	13				
Washington.....	22	22				
West Virginia.....	34	34				
Wisconsin.....	16	15				
Wyoming.....	50	51				
Guam.....	52	52				
Virgin Islands.....	53	53				

¹ No data available from this State.

² No expenditures reported in this category.

STATES BY SPENDING FOR JUVENILE COMMUNITY-BASED ALTERNATIVES

State	State population rank	State juvenile population rank	Bloc grant		Discretionary funds	
			Amount	State spending rank	Amount	State spending rank
Alabama.....	21	21	\$1,006,325	9	\$73,086	11
Alaska ¹	51	50				
Arizona ¹	32	32				
Arkansas ¹	33	33				
California ¹	1	2				
Colorado ¹	28	28				
Connecticut.....	24	25	1,131,000	8	357,253	5
Delaware ¹	47	47				
District of Columbia.....	43	45	473,000	13		
Florida.....	8	8	3,575,184	1		
Georgia ¹	14	14			636,000	3
Hawaii.....	40	40	153,900	19		
Idaho.....	42	41	136,341	21		
Illinois.....	5	5	3,326,208	2		
Indiana.....	11	12	400,865	14		
Iowa ²	25	26				
Kansas ¹	30	30				
Kentucky ¹	23	23				
Louisiana ¹	20	19				
Maine.....	38	38	230,236	17	155,245	9
Maryland.....	18	17	1,179,000	7		
Massachusetts ²	10	10			2,049,400	1
Michigan.....	7	7	717,200	12	307,500	6
Minnesota.....	19	18	334,015	16		
Mississippi ¹	29	29				
Missouri ¹	15	16				
Montana ¹	44	42				
Nebraska ¹	35	35				
Nevada ¹	48	48				
New Hampshire.....	41	44	80,000	24		
New Jersey.....	9	9	2,120,000	5	196,545	8
New Mexico ²	37	37				
New York ¹	2	1			76,579	10
North Carolina ²	12	11				
North Dakota.....	46	46	107,800	22		
Ohio.....	6	6	2,321,038	3	815,464	2
Oklahoma.....	27	27	395,000	15		
Oregon ¹	31	31				
Pennsylvania ¹	3	4				
Rhode Island.....	39	39	204,000	18		
South Carolina.....	26	24	879,072	11	31,765	14
South Dakota.....	45	43	90,000	23	55,500	12
Tennessee ¹	17	20				
Texas.....	4	3	2,159,008	4	691,401	4
Utah.....	36	36	147,456	20		
Vermont ²	49	49			54,993	13
Virginia ¹	13	13				
Washington.....	22	22	1,191,433	6		
West Virginia ¹	34	34				
Wisconsin.....	16	15	971,154	10		
Wyoming.....	50	51	45,000	26		
Guam ¹	52	52				
Virgin Islands.....	53	53	63,000	25		

¹ No data available from this State.² No expenditures reported in this category.

STATES BY SPENDING FOR PREVENTION (ADULTS)

State	State population rank	State juvenile population rank	Bloc grant		Discretionary funds	
			Amount	State spending rank	Amount	State spending rank
Alabama ¹	21	21			\$126,345	27
Alaska ¹	51	50			29,774	33
Arizona	32	32	\$575,000	12	439,228	13
Arkansas ¹	33	33			132,034	26
California ²	1	2			1,233,286	6
Colorado	28	28	187,303	17	2,999,131	4
Connecticut ¹	24	25			395,513	14
Delaware	47	47	246,000	14	299,706	18
District of Columbia	43	45	32,000	29	107,852	28
Florida	8	8	1,169,673	6	520,524	10
Georgia ¹	14	14			200,500	21
Hawaii ¹	40	40				
Idaho	42	41	85,822	22		
Illinois	5	5	3,607,817	3	249,925	20
Indiana	11	12	90,160	21		
Iowa ²	25	26				
Kansas	30	30	128,000	18		
Kentucky	23	23	127,500	19	499,000	12
Louisiana	20	19	394,233	13	837,919	7
Maine	38	38	78,954	23	166,020	24
Maryland	18	17			255,928	19
Massachusetts ²	10	10			348,144	16
Michigan ¹	7	7			756,815	9
Minnesota ¹	19	18			7,000	34
Mississippi	29	29	34,717	28		
Missouri	15	16	900,096	8	6,408,518	2
Montana ¹	44	42			134,553	25
Nebraska	35	35	105,000	20		
Nevada	48	48	46,344	26	391,476	15
New Hampshire	41	44	195,000	16		
New Jersey	9	9	1,882,000	5	516,869	11
New Mexico ²	37	37			167,584	23
New York	2	1	5,260,000	2	5,199,541	3
North Carolina ²	12	11			89,977	30
North Dakota	46	46	50,000	25	121,374	28
Ohio	6	6	2,177,298	4	6,442,873	1
Oklahoma ¹	27	27				
Oregon ¹	31	31			198,000	22
Pennsylvania	3	4	8,092,529	1	2,161,033	5
Rhode Island ¹	39	39			105,671	29
South Carolina ¹	26	24			51,109	32
South Dakota	45	43	28,000	30	87,865	31
Tennessee	17	20	712,657	10		
Texas	4	3	228,572	15		
Utah	36	36	736,047	9		
Vermont	49	49				
Virginia ²	13	13			331,949	17
Washington ¹	22	22			799,135	8
West Virginia	34	34	606,000	11		
Wisconsin	16	15	1,124,920	7		
Wyoming ¹	50	51				
Guam	52	52	59,400	24		
Virgin Islands	53	53	35,000	27		

¹ No data available from this State.² No expenditures reported in this category.

STATES BY SPENDING FOR DATA SYSTEMS

State	State population rank	State juvenile population rank	Bloc grant		Discretionary funds	
			Amount	State spending rank	Amount	State spending rank
Alabama	21	21	\$1,929,624	5	\$56,864	20
Alaska	51	50	12,000	30	85,238	18
Arizona	32	32	750,000	13		
Arkansas	33	33	75,000	26		
California ¹	1	2			2,147,148	2
Colorado	28	28	1,430,213	7	263,046	10
Connecticut	24	25	1,349,000	8		
Delaware ²	47	47				
District of Columbia ²	43	45			169,133	17
Florida ²	8	8			580,542	7
Georgia	14	14	450,000	20	1,604,461	3
Hawaii ²	40	40				
Idaho ²	42	41				
Illinois	5	5	871,579	11	580,775	6
Indiana	11	12	310,855	23		
Iowa ¹	25	26				
Kansas ²	30	30				
Kentucky	23	23	333,570	22		
Louisiana	20	19	1,070,596	10		
Maine	38	38	467,881	19		
Maryland	18	17	653,000	14		
Massachusetts ¹	10	10			81,297	19
Michigan	7	7	2,785,522	7	918,950	5
Minnesota	19	18	547,500	15	250,000	11
Mississippi	29	29	1,085,000	9		
Missouri	15	16	493,949	18	157,893	15
Montana	44	42	272,000	24		
Nebraska ²	35	35			33,007	22
Nevada	48	48	442,048	21	250,000	12
New Hampshire	41	44	50,000	27		
New Jersey ²	9	9			2,970,619	1
New Mexico ¹	37	37				
New York ²	2	1			314,084	9
North Carolina ¹	12	11			577,199	8
North Dakota	46	46	500,000	17		
Ohio	6	6	3,010,339	1		
Oklahoma ²	27	27			49,478	21
Oregon ²	31	31			210,886	13
Pennsylvania ²	3	4				
Rhode Island	39	39	48,600	28		
South Carolina	26	24	2,010,017	4		
South Dakota	45	43	46,000	29		
Tennessee	17	20	2,740,886	3		
Texas	4	3	789,093	12		
Utah	36	36	533,244	16		
Vermont	49	49				
Virginia ¹	13	13			1,004,821	4
Washington	22	22	1,814,044	6	190,769	16
West Virginia	34	34	100,000	25		
Wisconsin ²	16	15				
Wyoming ²	50	51				
Guam ²	52	52				
Virgin Islands ²	53	53				

¹ No expenditures reported in this category.

² No data available from this State.

STATES BY SPENDING FOR JUVENILE CORRECTIONAL INSTITUTIONS

State	State population rank	State juvenile population rank	Bloc grant		Discretionary funds	
			Amount	State spending rank	Amount	State spending rank
Alabama ¹	21	21				
Alaska ¹	51	50				
Arizona ¹	32	32	\$165,000	12		
Arkansas ¹	33	33				
California ²	1	2			\$259,618	2
Colorado	28	28	688,540	2		
Connecticut ¹	24	25				
Delaware ¹	47	47				
District of Columbia ¹	43	45				
Florida ¹	8	8				
Georgia ¹	14	14				
Hawaii	40	40	93,000	14		
Idaho ¹	42	41				
Illinois	5	5	687,000	3		
Indiana	11	12				
Iowa ²	25	26				
Kansas ¹	30	30				
Kentucky	23	23	1,260,110	1		
Louisiana ¹	20	19				
Maine	38	38	25,000	16		
Maryland	18	17	312,000	7		
Massachusetts ²	10	10				
Michigan ¹	7	7				
Minnesota	19	18	666,900	4		
Mississippi	29	29	175,430	11		
Missouri ¹	15	16				
Montana ¹	44	42	124,000	13		
Nebraska ¹	35	35				
Nevada ¹	48	48				
New Hampshire ¹	41	44				
New Jersey	9	9	300,000	8	15,000	3
New Mexico ²	37	37				
New York ¹	2	1				
North Carolina ²	12	11				
North Dakota ¹	46	46				
Ohio	6	6	210,298	10		
Oklahoma	27	27	80,000	15		
Oregon ¹	31	31				
Pennsylvania	3	4	294,183	9		
Rhode Island ¹	39	39				
South Carolina ¹	26	24				
South Dakota	45	43				
Tennessee	17	20	316,000	6		
Texas ¹	4	3				
Utah ¹	36	36				
Vermont ²	49	49				
Virginia	13	13				
Washington	22	22	380,540	5		
West Virginia ¹	34	34				
Wisconsin ¹	16	15				
Wyoming ¹	50	51				
Guam ¹	52	52				
Virgin Islands ¹	53	53				

¹ No data available from this State.² No expenditures reported in this category.

STATES BY SPENDING FOR CORRECTIONS

State	State population rank	State Juvenile population rank	Bloc grant		Discretionary funds	
			Amount	State spending rank	Amount	State spending rank
Alabama.....	21	21	\$923,205	22	-----	-----
Alaska.....	51	50	251,045	36	\$192,262	28
Arizona.....	32	32	600,000	30	89,051	35
Arkansas.....	33	33	790,000	26	1,886,752	8
California ¹	1	2	-----	-----	1,606,361	10
Colorado.....	28	28	217,521	38	255,241	23
Connecticut.....	24	25	1,149,000	21	178,174	30
Delaware.....	47	47	128,000	41	52,835	37
District of Columbia ²	43	45	-----	-----	246,400	25
Florida.....	8	8	3,746,459	7	637,061	15
Georgia.....	14	14	896,132	24	1,689,718	9
Hawaii.....	40	40	854,000	25	750,000	13
Idaho.....	42	41	413,102	31	20,000	39
Illinois.....	5	5	2,998,044	8	781,583	12
Indiana.....	11	12	1,916,513	13	466,358	19
Iowa ¹	25	26	-----	-----	-----	-----
Kansas.....	30	30	1,792,000	15	-----	-----
Kentucky.....	23	23	1,161,026	20	185,294	29
Louisiana.....	20	19	1,800,173	14	3,750,000	3
Maine.....	38	38	137,106	37	210,800	26
Maryland.....	18	17	4,169,000	6	67,243	37
Massachusetts ¹	10	10	-----	-----	476,213	18
Michigan.....	7	7	6,188,143	1	2,951,134	4
Minnesota.....	19	18	2,651,100	9	449,815	20
Mississippi.....	29	29	900,800	23	2,000,000	7
Missouri.....	15	16	1,768,491	16	2,068,936	6
Montana.....	44	42	707,600	29	150,000	33
Nebraska.....	35	35	1,625,000	17	2,200,000	5
Nevada.....	48	48	328,655	34	500,000	17
New Hampshire.....	41	44	398,000	32	243,218	26
New Jersey.....	9	9	2,527,000	11	1,191,646	11
New Mexico ¹	37	37	-----	-----	-----	-----
New York.....	2	1	4,730,000	3	5,444,507	2
North Carolina ¹	12	11	-----	-----	-----	-----
North Dakota.....	46	46	215,500	39	643,304	14
Ohio.....	6	6	4,381,429	4	5,901,775	1
Oklahoma.....	27	27	1,212,400	18	-----	-----
Oregon.....	31	31	732,908	28	-----	-----
Pennsylvania.....	3	4	5,137,826	2	78,967	36
Rhode Island ²	39	39	-----	-----	150,999	32
South Carolina.....	26	24	771,568	27	555,012	16
South Dakota.....	45	43	322,422	35	350,000	22
Tennessee.....	17	20	1,917,550	12	200,000	27
Texas.....	4	3	4,356,404	5	173,375	31
Utah.....	36	36	353,175	33	376,197	21
Vermont.....	49	49	-----	-----	52,473	38
Virginia ¹	13	13	-----	-----	-----	-----
Washington.....	22	22	1,176,523	19	120,851	34
West Virginia ²	34	34	-----	-----	-----	-----
Wisconsin.....	16	15	2,651,053	10	-----	-----
Wyoming.....	50	51	160,000	40	250,000	24
Guam.....	52	52	41,000	42	-----	-----
Virgin Islands.....	53	53	6,333	43	-----	-----

¹ No expenditures reported in this category.

² No data available from this State.

STATES BY SPENDING FOR POLICE.

State	State population rank	State juvenile population rank	Bloc grant		Discretionary funds	
			Amount	State spending rank	Amount	State spending rank
Alabama	21	21	\$1,789,106	17	\$319,009	24
Alaska	51	50	602,889	35	244,212	29
Arizona	32	32	1,037,000	29	603,896	15
Arkansas	33	33	2,387,750	13	132,034	32
California ¹	1	2			3,140,265	6
Colorado	28	28	1,733,294	18	3,012,177	7
Connecticut	24	25	2,294,000	15	220,706	30
Delaware	47	47	298,000	40	299,706	25
District of Columbia	43	45	370,001	38	246,983	27
Florida	8	8	4,026,294	5	1,008,133	11
Georgia	14	14	3,607,921	7	1,804,961	10
Hawaii	40	40	280,600	42		
Idaho	42	41	757,242	32		
Illinois	5	5	9,278,118	4	580,700	16
Indiana	11	12	3,432,595	9		
Iowa ¹	25	26				
Kansas	30	30	1,588,500	21	95,793	36
Kentucky	23	23	1,141,879	27	499,000	18
Louisiana	20	19	3,560,834	8	837,919	12
Maine	38	38	468,627	36	124,010	33
Maryland	18	17	1,302,000	25	255,928	26
Massachusetts ¹	10	10			477,432	19
Michigan	7	7	9,475,795	3	2,344,565	8
Minnesota	19	18	1,667,106	20	7,000	42
Mississippi	29	29	1,554,421	22		
Missouri	15	16	1,477,956	23	6,233,642	2
Montana	44	42	659,600	34	470,581	20
Nebraska	35	35	1,068,000	28	33,007	40
Nevada	48	48	173,355	43	652,726	14
New Hampshire	41	44	745,000	33	39,888	39
New Jersey	9	9	775,000	31	3,487,488	5
New Mexico ¹	37	37			344,476	23
New York	2	1	10,650,000	2	459,859	21
North Carolina ¹	12	11			167,176	31
North Dakota	46	46	348,000	39	121,374	34
Ohio	6	6	3,813,800	6	8,615,917	1
Oklahoma	27	27	2,401,743	12	49,478	38
Oregon	31	31	3,397,475	10	4,609,112	3
Pennsylvania	3	4	1,471,415	24	2,161,033	9
Rhode Island	39	39	1,208,731	26	105,671	35
South Carolina	26	24	1,696,472	19	164,936	32
South Dakota	45	43	410,560	37	87,865	37
Tennessee	17	20	2,298,000	14	3,800,000	4
Texas	4	3	13,019,289	1		
Utah	36	36	130,989	45	245,000	28
Vermont	49	49			25,000	41
Virginia ¹	13	13			536,902	17
Washington	22	22	2,137,230	16	799,135	13
West Virginia	34	34	823,000	30	391,000	22
Wisconsin	16	15	2,554,285	11		
Wyoming	50	51	290,000	41		
Guam	52	52	68,400	46		
Virgin Islands	53	53	135,000	44		

¹ No expenditures reported in this category.

STATES BY SPENDING FOR HARDWARE

State	State population rank	State juvenile population rank	Bloc grant		Discretionary funds	
			Amount	State spending rank	Amount	State spending rank
Alabama ¹	21	21				
Alaska.....	51	50	\$87,778	23	\$14,500	8
Arizona.....	32	32	500,000	11	136,919	5
Arkansas.....	33	33	743,000	9		
California ²	1	2			245,516	4
Colorado ¹	28	28				
Connecticut ¹	24	25				
Delaware ¹	47	47				
District of Columbia ¹	43	45			77,850	7
Florida ¹	8	8				
Georgia.....	14	14	802,000	7		
Hawaii.....	40	40	286,000	15		
Idaho.....	42	41	207,597	19		
Illinois ¹	5	5				
Indiana.....	11	12	2,596,568	3		
Iowa ²	25	26				
Kansas.....	30	30	400,000	12		
Kentucky ¹	23	23				
Louisiana.....	20	19	130,000	22		
Maine.....	38	38	165,851	20		
Maryland ¹	18	17				
Massachusetts ²	10	10				
Michigan ¹	7	7			800,000	3
Minnesota.....	19	18	1,716,079	5		
Mississippi.....	29	29	219,555	18		
Missouri.....	15	16	751,926	8		
Montana ¹	44	42			11,100	9
Nebraska.....	35	35	400,000	13		
Nevada ¹	48	48				
New Hampshire.....	41	44	70,000	24		
New Jersey.....	9	9	1,825,000	4		
New Mexico ²	37	37			10,616	10
New York ¹	2	1			10,318	11
North Carolina ²	12	11				
North Dakota.....	46	46	50,500	25		
Ohio.....	6	6	1,328,056	6	1,930,044	2
Oklahoma ¹	27	27				
Oregon ¹	31	31				
Pennsylvania.....	3	4	3,879,677	2		
Rhode Island ¹	39	39				
South Carolina.....	26	24	709,403	10	134,936	6
South Dakota.....	45	43	265,375	16		
Tennessee.....	17	20	370,000	14		
Texas.....	4	3	4,543,371	1	3,500,000	1
Utah ¹	36	36				
Vermont ¹	49	49				
Virginia ²	13	13				
Washington ¹	22	22				
West Virginia ¹	34	34				
Wisconsin.....	16	15	158,000	21		
Wyoming.....	50	51	260,000	17		
Guam ¹	52	52				
Virgin Islands ¹	53	53				

¹ No data available from this State.² No expenditures reported in this category.

Appendix B

LEAA PER CAPITA BLOCK GRANT SPENDING FOR ALL PROGRAM AREAS FISCAL YEAR 1975

State	LEAA part C total	Population of State	Per capita spending
Alabama	\$9,333,560	3,539,000	\$2.63
Alaska	1,347,491	330,000	4.08
Arizona	4,462,000	2,058,000	2.16
Arkansas	5,306,000	2,037,000	2.60
California	41,390,060	20,501,000	2.01
Colorado	4,992,983	2,437,000	2.04
Connecticut	6,800,000	3,076,000	2.21
Delaware	1,455,000	576,000	2.52
District of Columbia	1,511,001	746,000	2.62
Florida	15,049,221	7,678,000	1.96
Georgia	10,794,421	4,768,000	2.63
Hawaii	2,208,000	832,000	2.65
Idaho	1,888,000	770,000	2.45
Illinois	24,428,844	11,236,000	2.17
Indiana	12,263,997	5,316,000	2.30
Iowa	(1)	2,904,000	(1)
Kansas	5,155,000	2,279,000	2.61
Kentucky	7,514,000	3,434,000	2.24
Louisiana	8,626,000	3,764,000	2.29
Maine	1,844,193	1,026,000	1.80
Maryland	8,925,000	4,070,000	2.20
Massachusetts	(1)	5,818,000	(1)
Michigan	20,350,534	9,044,000	2.25
Minnesota	8,812,000	3,897,000	2.26
Mississippi	5,346,555	2,281,000	2.34
Missouri	10,789,000	4,757,000	2.26
Montana	2,066,122	721,000	2.86
Nebraska	3,473,000	1,542,000	2.25
Nevada	1,332,000	548,000	2.43
New Hampshire	2,030,500	791,000	2.56
New Jersey	14,363,000	7,361,000	1.95
New Mexico	(1)	1,106,000	(1)
New York	35,413,000	18,265,000	1.93
North Carolina	11,866,000	5,273,000	2.25
North Dakota	1,574,000	640,000	2.45
Ohio	20,701,452	10,731,000	1.92
Oklahoma	5,564,000	2,663,000	2.09
Oregon	4,966,000	2,225,000	2.23
Pennsylvania	27,059,000	11,902,000	2.27
Rhode Island	2,016,555	973,000	2.07
South Carolina	6,733,403	2,726,000	2.47
South Dakota	1,714,257	685,000	2.50
Tennessee	9,540,000	4,126,000	2.31
Texas	30,930,271	11,794,000	2.62
Utah	2,400,226	1,157,000	2.07
Vermont	1,175,000	464,000	2.53
Virginia	(1)	4,811,000	(1)
Washington	7,117,000	3,429,000	2.07
West Virginia	3,001,000	1,794,000	1.67
Wisconsin	10,526,003	4,569,000	2.30
Wyoming	1,045,000	353,000	2.96
Guam	365,000	85,000	4.29
Virgin Islands	304,333	62,000	4.90

1 Figures not available.

Appendix C

DISCRETIONARY FUNDS, FISCAL YEAR 1973

	Nationwide	Alabama	Alaska	Arizona	Arkansas	California	Colorado	Connecticut
Total discretionary funds awarded	\$131,737,769	\$1,399,209	\$980,442	\$1,299,148	\$2,018,785	\$5,543,369	\$9,053,015	\$877,194
Police	49,855,638	319,099	244,212	603,836	132,034	3,104,265	3,012,177	220,513
Crime prevention programs	35,758,580	126,345	29,774	438,228	132,034	1,233,286	2,999,131	220,513
Computer/data systems	9,214,898	56,864	42,238			1,561,960	13,046	
Hardware	6,871,873		14,500	136,919		245,516		
Research and planning	5,444,005		48,203	27,749				
Training and education	1,537,035	135,830	109,500					
Legal advice	59,211							
Courts	12,463,823	539,000	33,334	225,903		287,601	40,192	
Administration	7,482,631	539,000	33,334				40,192	
Prosecution	3,837,345			225,903		222,377		
Defense	109,090							
Research	177,814							
Education	13,720							
Data systems	879,318					65,224		
Research (criminal justice general)	8,255,032	427,114	60,634	93,821		379,705	5,624,015	
Corrections	39,593,555		192,262	89,051	1,886,752	1,606,361	255,241	178,174
Research	953,608				1,886,752			
Miscellaneous	793,063							
Institutions	11,679,220		39,322					
Community-based programs	15,039,498		109,940	89,051		542,000		
Narcotics-related programs	6,053,581							175,000
Computer	1,313,214		43,000			519,964	250,000	
Education	2,761,461					544,397	5,241	3,174
Juvenile	12,258,383	153,086		286,472		728,201		478,507
Data	1,326,790							
Miscellaneous	294,880							
Prevention	3,121,499	80,000		257,980		468,583		121,254
Alternatives	4,510,305							
Institutions	680,360					259,618		
Community-based homes	1,188,886	73,086						357,253
Research	585,428			28,492				
Youth services	550,235							
Miscellaneous	3,600,667							
Education	1,049,667					401,236	121,390	
Small State	2,537,000		450,000					

	Delaware	District of Columbia	Florida	Georgia	Hawaii	Idaho	Illinois	Indiana
Total discretionary funds awarded.....	\$480,541	\$730,383	\$1,878,348	\$4,130,679	\$1,021,467	\$286,007	\$4,060,664	\$513,649
Police.....	299,706	246,983	1,008,133	1,804,961			580,700	
Crime prevention programs.....	299,706		227,673	200,500			249,925	
Computer/data systems.....		169,133	580,292	1,604,461			330,775	
Hardware.....		77,850						
Research and planning.....			39,596					
Training and education.....			160,572					
Legal advice.....								
Courts.....					52,204	100,007	2,400,000	
Administration.....						30,974	2,000,000	
Prosecution.....					52,204	25,000	300,000	
Defense.....							100,000	
Research.....						44,033		
Education.....								
Data systems.....								
Research (criminal justice general).....			49,977				243,242	47,291
Corrections.....	52,835	246,400	637,061	1,689,718	750,000	20,000	781,583	466,358
Research.....								
Miscellaneous.....								
Institutions.....					2,600,000	20,000	80,600	
Community-based programs.....	52,835	138,548	343,960	1,689,718			450,983	466,358
Narcotics-related programs.....		107,852	492,851					
Computer.....			250				250,000	
Education.....					150,000			
Juvenile.....			60,000	636,000				
Data.....								
Miscellaneous.....								
Prevention.....								
Alternatives.....				636,000				
Institutions.....								
Community-based homes.....								
Research.....			60,000					
Youth services.....								
Miscellaneous.....					219,263			
Education.....					10,263		55,139	
Small State.....	128,000	237,000	123,437		209,000	166,000		

See footnotes at end of table.

DISCRETIONARY FUNDS, FISCAL YEAR 1973—Continued

	Iowa	Kansas	Kentucky	Louisiana	Maine	Maryland	Massachusetts	Michigan
Total discretionary funds awarded.....	\$484,684	\$120,793	\$1,039,523	\$4,587,919	\$578,055	\$1,223,171	\$3,395,557	\$6,286,059
Police.....		95,793	499,000	837,919	124,010	255,928	477,432	2,344,565
Crime prevention programs.....			499,000	837,919	112,020	255,928	348,144	756,815
Computer/data systems.....							81,297	787,750
Hardware.....								806,000
Research and planning.....								
Training and education.....		95,793					12,000	
Legal advice.....					12,000		35,991	
Courts.....			145,225		28,000	900,000	11,991	141,660
Administration.....						900,000		
Prosecution.....			56,350				11,991	141,660
Defense.....								
Research.....			88,875		28,000			
Education.....								
Data systems.....								
Research (criminal justice general).....	394,428	25,000					7,500	229,700
Corrections.....			185,294	3,750,000	210,800	67,243	476,213	2,951,134
Research.....							172,000	63,600
Miscellaneous.....							469,213	4,123,850
Institutions.....			185,294	3,750,000				18,800
Community-based programs.....					156,800	67,243	235,000	2,744,884
Narcotics-related programs.....					54,000			
Computer.....								
Education.....								
Juvenile.....	90,256		210,004		155,245		2,344,280	438,700
Data.....								131,200
Miscellaneous.....							294,800	
Prevention.....	51,436							
Alternatives.....							2,049,400	
Institutions.....								
Community-based homes.....					155,245			
Research.....	38,820		210,004					
Youth services.....								
Miscellaneous.....							78,141	
Education.....					60,000		64,141	180,300
Small State.....								
Other.....							14,000	

	Minnesota	Mississippi	Missouri	Montana	Nebraska	Nevada	New Hampshire	New Jersey
Total discretionary funds awarded.....	\$496,093	\$2,000,000	\$8,495,923	\$830,839	\$2,605,241	\$1,354,006	\$862,481	\$6,663,429
Police.....	7,000		6,233,642	470,581	33,007	652,726	39,888	3,487,488
Crime prevention programs.....	7,000		6,035,749	134,553		391,476		515,869
Computer/data systems.....			197,893		33,007	250,000		2,970,619
Hardware.....				11,100				
Research and planning.....				324,928			10,100	
Training and education.....							29,788	
Legal advice.....						11,250		
Courts.....			99,890	32,694		19,740	101,830	911,428
Administration.....				32,694			101,830	911,428
Prosecution.....			98,969			19,740		
Defense.....								
Research.....			921					
Education.....								
Data systems.....								
Research (criminal justice general).....					372,234	67,540		
Corrections.....	449,815	2,000,000	2,068,936	150,000	2,200,000	500,000	243,218	1,191,646
Research.....							26,670	
Miscellaneous.....	5250,000							
Institutions.....	199,815	2,000,000	300,000	150,000	200,000	500,000	214,048	275,000
Community-based programs.....			1,386,167					916,646
Narcotics-related programs.....			372,769					
Computer.....								
Education.....			10,000		2,000,000		2,500	
Juvenile.....	39,278		93,455	15,564			196,545	1,072,867
Data.....								
Miscellaneous.....								
Prevention.....	39,278		93,455	15,564				859,407
Alternatives.....								198,460
Institutions.....								15,000
Community-based homes.....							196,545	
Research.....								
Youth Services.....								
Miscellaneous.....								
Education.....								
Small State.....				162,000		114,000	281,000	

See footnotes at end of table.

DISCRETIONARY FUNDS, FISCAL YEAR 1973—Continued

	New Mexico	New York	North Carolina	North Dakota	Ohio	Oklahoma	Oregon	Pennsylvania
Total discretionary funds awarded.....	\$378,227	\$9,764,430	\$838,288	\$787,192	\$18,076,371	\$49,478	\$4,609,112	\$2,240,000
Police.....	344,476	459,859	167,176	121,374	8,615,917	49,478	4,609,112	2,161,033
Crime prevention programs.....	167,584	199,541	89,977	121,374	6,442,873		198,000	2,161,033
Computer/data systems.....			77,199		198,000	49,478	210,886	
Hardware.....	10,696	10,318			1,930,044			
Research and planning.....		250,000			45,000		4,200,226	
Training and education.....	166,196							
Legal advice.....								
Courts.....		3,497,335	527,112		1,950,290			
Administration.....		909,924	27,112		1,950,290			
Prosecution.....		2,273,317						
Defense.....								
Research.....								
Education.....								
Data systems.....		314,094	500,000					
Research (criminal justice general).....		29,500		22,514				
Corrections.....		5,444,507		643,304	5,901,775			78,967
Research.....		208,510						
Miscellaneous.....								
Institutions.....				318,304	687,133			78,967
Community-based programs.....		235,997		325,000	5,214,642			
Narcotics-related programs.....		5,000,000						
Computer.....								
Education.....								
Juvenile.....		333,229			1,608,389			
Data.....								
Miscellaneous.....								
Prevention.....		256,650			86,000			
Alternatives.....		76,579			781,972			
Institutions.....								
Community-based homes.....					33,492			
Research.....					156,650			
Youth services.....					550,235			
Miscellaneous.....								
Education.....	33,751							
Small State.....			144,000					

	Rhode Island	South Carolina	South Dakota	Tennessee	Texas	Utah	Vermont	Virginia
Total discretionary funds awarded	\$320,657	\$835,603	\$865,232	\$200,000	\$5,370,233	\$635,953	\$356,992	\$2,038,887
Police	105,671	164,936	87,865		3,800,000	245,106	25,000	536,902
Crime prevention programs	105,671		87,865					331,949
Computer/data systems								
Hardware		134,936			3,500,000			
Research and planning		30,000				245,106	25,000	161,640
Training and education					300,000			43,313
Legal advice								
Courts		67,255	91,428				61,985	
Administration			44,853					
Prosecution		67,255	46,575				46,000	
Defense								
Research							15,985	
Education								
Data systems								
Research (criminal justice general)		16,635	124,439			14,650	25,093	
Corrections	150,999	555,012	350,000	200,000	173,375	376,197	52,473	
Research	150,999	331,829						
Miscellaneous								
Institutions		125,185	250,000			150,000		
Community-based programs		46,889	100,000	200,000	137,375	226,197	20,044	
Narcotics-related programs		51,109						
Computer								
Education							32,429	
Juvenile	63,987	31,765	55,500		1,396,858		77,441	1,501,985
Data								1,004,821
Miscellaneous								
Prevention	63,987				705,457		22,448	
Alternatives			55,500		691,401		20,993	
Institutions								405,742
Community-based homes		31,765					34,000	
Research								91,422
Youth services								
Miscellaneous								
Education								
Small State			156,000				115,000	

DISCRETIONARY FUNDS, FISCAL YEAR 1973—Continued

	Washington	West Virginia	Wisconsin	Wyoming	Other agencies
Total discretionary funds awarded.....	\$1,124,475	\$391,000	\$220,000	\$625,000	\$5,713,665
Police.....	799,135	391,000			
Crime prevention programs.....	799,135				
Computer/data systems.....					
Hardware.....					
Research and planning.....		391,000			
Training and education.....					
Legal advice.....					
Courts.....	13,720		220,000		
Administration.....			220,000		
Prosecution.....			220,000		
Defense.....					
Research.....	13,720				
Education.....					
Data systems.....					
Research (criminal justice, general).....					5,713,665
Corrections.....	120,851				250,000
Research.....					250,000
Miscellaneous.....					
Institutions.....					250,000
Community-based programs.....	107,131				
Narcotics-related programs.....					
Computer.....	13,720				
Education.....					
Juvenile.....	190,769				
Data.....	190,769				
Miscellaneous.....					
Prevention.....					
Alternatives.....					
Institutions.....					
Community-based homes.....					
Research.....					
Youth services.....					
Miscellaneous.....					
Education.....					
Small State.....					375,00

¹ Building.
² Master plan.
³ Interns.
⁴ Legal advice.
⁵ Data.

Appendix D

DISCRETIONARY FUNDS FISCAL YEAR 1973

State	Computer printout listing grant awards	Computer printout listing funds expended	Difference
Alabama	\$1,292,669	\$1,399,209	\$+106,540
Alaska	953,278	980,442	+21,164
Arizona	1,801,149	1,299,148	-502,001
Arkansas	2,018,786	2,018,786	-----
California	8,346,449	6,543,369	-1,803,080
Colorado	10,266,943	9,053,015	-1,213,928
Connecticut	1,008,194	877,194	-131,000
Delaware	532,541	480,541	-52,000
District of Columbia	2,435,924	730,583	-1,705,341
Florida	1,850,706	1,878,348	+27,642
Georgia	5,302,325	4,130,679	-1,171,646
Hawaii	1,397,320	1,021,467	-375,853
Idaho	545,322	386,007	-159,315
Illinois	4,850,538	4,060,664	-789,874
Indiana	513,649	513,649	-----
Iowa	530,473	484,684	-45,789
Kansas	120,779	120,793	+14
Kentucky	2,735,521	1,039,523	-1,695,998
Louisiana	4,587,919	4,587,919	-----
Maine	481,830	578,055	+96,225
Maryland	1,223,251	1,223,171	-80
Massachusetts	3,730,323	3,395,557	-334,766
Michigan	6,314,093	6,286,059	-28,034
Minnesota	373,440	496,093	+122,653
Mississippi	2,270,007	2,000,000	-270,007
Missouri	9,266,538	8,495,923	-770,615
Montana	892,854	830,839	-62,015
Nebraska	2,594,371	2,605,241	+10,870
Nevada	1,415,926	6,354,006	+4,938,080
New Hampshire	862,481	862,481	-----
New Jersey	6,337,362	6,663,429	+326,067
New Mexico	378,187	378,227	+40
New York	9,720,827	9,764,430	+43,603
North Carolina	1,132,108	838,288	-293,820
North Dakota	606,321	787,192	+180,871
Ohio	4,339,217	18,076,371	+13,737,154
Oklahoma	913,647	49,478	-864,169
Oregon	4,668,115	4,609,112	-59,003
Pennsylvania	2,469,533	2,224,000	-245,533
Rhode Island	323,657	320,657	-3,000
South Carolina	8,264,194	835,603	-7,428,591
South Dakota	865,232	865,232	-----
Tennessee	200,000	200,000	-----
Texas	5,073,177	5,370,233	+297,056
Utah	635,953	635,953	-----
Vermont	375,992	356,997	-18,995
Virginia	1,625,009	2,038,897	+413,888
Washington	1,124,523	1,124,475	-48
West Virginia	666,000	391,000	-275,000
Wisconsin	220,000	220,000	-----
Wyoming	625,000	625,000	-----
Total	131,308,099	131,737,769	+429,670

RESEARCH GRANTS FROM DISCRETIONARY FUNDS

National Center for State Courts.....	\$1, 629, 539
American Bar Association.....	312, 412
National Volunteer Parole and Probation.....	250, 000
University of Louisville.....	295, 998
National Institute for Trial Advocacy.....	70, 200
National District Attorneys Association.....	1, 026, 106
Project Star.....	250, 000
Blackstone Associates.....	89, 049
South Carolina Law Enforcement Assistance Program.....	206, 100
National Council on Juvenile Court Judges.....	169, 533
LEAA—Region II Jail and Detention Standards (American Bar Association).....	11, 257
National Association of State Juvenile Delinquency Programs Administration.....	9, 581
General Services Administration.....	322, 000
New England Organized Crime Intelligence System.....	593, 500
NECC Regional Center.....	131, 000
National Council on Crime and Delinquency.....	20, 000
New England Correction Management.....	12, 429
New England Juvenile Probation Office.....	19, 926
Organizational Dynamics Institute for North Eastern Correctional System.....	20, 000
South Eastern Regional Counsel—Correctional Management Training.....	127, 500
Rocky Mountain Institute in Community Involvement in Administration of Justice.....	34, 715
National Association of Attorneys General Improvement.....	112, 820
Total.....	<u>5, 713, 665</u>
Virgin Islands.....	214, 000
Guam.....	162, 000
Samoa.....	87, 000
Total.....	<u>463, 000</u>

Senator HRUSKA. Our final witness of the day is Mr. Aryeh Neier. Mr. Neier is the executive director of the American Civil Liberties Union.

STATEMENT OF ARYEH NEIER, EXECUTIVE DIRECTOR, AMERICAN CIVIL LIBERTIES UNION; ACCOMPANIED BY RICHARD LARSON, STAFF COUNSEL, AMERICAN CIVIL LIBERTIES UNION

Senator HRUSKA. Will you identify your associate?

Mr. NEIER. Yes; my associate is Richard Larson, a staff counsel for the ACLU who has had some contact with LEAA.

Senator, I would like to submit my statement for the record and summarize it briefly and elaborate on it.

Senator HRUSKA. It will be put in the record in its entirety.

Mr. NEIER. Thank you very much, Senator.

I would like to comment on three aspects of LEAA today. One represents a failure of leadership on the part of LEAA. The second represents too much leadership on the part of LEAA. And the third is a criticism of LEAA for failing to implement a specific congressional mandate.

The failure of leadership is in LEAA's failure to divert State and local law enforcement agencies from their preoccupation with crimes

which do not have victims or crimes which do not have complainants. Some 50 percent of all the arrests that are made by law enforcement agencies around the country fall into this category. Of those, the greatest number are of people who are accused of the crime of being drunk in public. That crime accounts for about 2¼ million arrests during the course of the year. It is an offense which does not seem susceptible to law enforcement effort. Yet, judging by the amount of time law enforcement agencies expend in dealing with that offense, one would think public drunkenness was the largest part of the crime problem in the United States.

Another offense in that category is possession of marihuana. In the 7 years since the enactment of the Crime Control and Safe Streets Act of 1968 the largest rise in law enforcement activity has been in arresting people for the crime of possessing marihuana. There has been about a sevenfold rise in the period from 1968 to 1973, the last year for which statistics are available. The FBI reported some 420,000 arrests nationally in 1973 for the crime of possessing marihuana.

When Congress enacted the Omnibus Crime Control and Safe Streets Act of 1968, it was concerned with crime in the streets. Congress was concerned with injuries to persons and the destruction and theft of property from persons. It seems to us that an agency intended to provide leadership in dealing with the overriding problem of personal safety and safety of property would address itself to the enormous expenditure of law enforcement energies on matters that do not concern those crimes it should play some leadership role in diverting law enforcement energy from victimless crimes. But LEAA has failed to do this. I have often wondered how a victim of a rape or a robbery would feel if the police officer who got there late explained that other police officers were too busy apprehending somebody for possession of marihuana or too busy taking a drunk to jail and testifying against that person at a hearing to be able to apprehend the rapist or robber or to prevent that crime.

If victims of crime understood where law enforcement energies are being placed, they might get very upset. They would hope the Federal Government would play some leadership role in diverting law enforcement energies from that preoccupation.

The second general area, the area where I think LEAA—

Senator HRUSKA. Mr. Witness, before you get to the second one, if will not interrupt your train of thought, may I ask a question or two about the first topic you raise?

Mr. NEIER. Yes.

Senator HRUSKA. You point to this victimless crime and the undue proportion of time taken by police departments on it.

Mr. NEIER. Yes.

Senator HRUSKA. Is it within the power of LEAA to say, Mr. Chief of Police, forget that and get on with other things?

Mr. NEIER. I think it is in the power of LEAA to provide some leadership, to suggest to law enforcement agencies through discretionary grants it makes, through the speeches that are made by its administrator, and through the contacts it has with local law enforcement agencies around the country, that the Congress was concerned about crime on the streets. Congress was concerned about things which caused fear to American citizens. If law enforcement agencies

would use the money that comes to them from the Federal Government to combat those crimes instead of spending such enormous energies elsewhere, it would help fulfill the purpose the Congress had in enacting the Safe Streets and Crime Control Act of 1968.

I think that is a leadership role. It is not a—

Senator HRUSKA. What do you mean "leadership?" Lecturing and suggesting?

Mr. NEIER. Well—

Senator HRUSKA. The point I am driving at, Mr. Neier, is where will be the dividing line between exercising leadership—yesterday we had a witness before us who came from the State of Oklahoma and he deplored greatly the Federal interference and domination in the local law enforcement systems. Now here you come and say they are not doing enough. Now, where will the point be reached that if LEAA said "don't arrest drunks, don't arrest the victimless crime offenders," how soon will they be criticized for getting into the field of dominating, ruling, influencing and running the local police departments?

Mr. NEIER. Senator—

Senator HRUSKA. You see that it is a problem.

Mr. NEIER. I understand that. But I think the money that does go from LEAA to State planning agencies and the money from LEAA for various discretionary grants already play a substantial role in influencing the way law enforcement carries out its duties.

Senator HRUSKA. Well, now, discretionary grants are only 15 per cent.

Mr. NEIER. I understand.

Senator HRUSKA. For this purpose, we can forget about it. But when we send that bloc grant to any State, the State then applies that money pursuant to its comprehensive plan and if we are going to say we are not going to give you that money if you arrest drunks and other offenders for victimless crime, how much are we participating as a Federal agency in running the departments?

Mr. NEIER. I wonder, Senator, whether it is not misleading the American public to tell them the Congress has enacted a Safe Streets Act and is providing funds to law enforcement and really law enforcement is spending all this energy and money on something other than providing safe streets. I wonder if there is not a problem of keeping faith with the American public that pays the taxes for this.

Senator HRUSKA. On the other hand, in the judgment of that community, they have laws on their books that say policemen shall arrest drunks who are on the streets. They can arrest victimless crime offenders. Now what are we going to do, replace those laws?

Mr. NEIER. Senator, I am sure you are aware that law enforcement agencies have immense discretion in the way they spend their time, the way they emphasize one matter or another. I have had a great deal of contact with police. I served for a considerable period as a regular lecturer at the New York City Police Academy. I learned a great deal from my students, the members of the police force in New York, who took my classes. Senator, I regularly asked my students one question. I asked them if they had ever known anybody who had committed adultery. They all raised their hands. Then I asked them if they knew it was against the laws of the State of New

York to commit adultery. It was a crime. I asked whether any of them ever arrested anybody for that crime. None of them ever had. In fact, there has not been an arrest in this century for that crime in New York.

The Police Department in my State and, I would suspect, the police department in your State, exercised its discretion not to enforce that particular law making adultery a crime. I think police departments have authority to exercise discretion in the way they use the resources of the police department.

I am urging that a Federal agency set up to help reduce crime in the streets do exactly that. LEAA should play a leadership role in diverting police energies from things which do not injure people on the streets.

Senator, if I may continue to the other areas?

Senator HRUSKA. Yes. Well, you have raised a point, and I just wanted to find out what your ideas were as to where we were becoming assistant chiefs of police.

Now, you also make a statement—an obsolete statement, “LEAA has spent a great deal of money on hardware.”

Where did you get that idea? Five percent according to the witness who just preceded you. Would you ban all expenditure of money on hardware?

Mr. NEIER. As I understand it, Senator, of the 85,000 projects LEAA has financed, over $\frac{1}{4}$ have paid for hardware.

Senator HRUSKA. That is right.

Mr. NEIER. And all I am saying here is that if the emphasis given to hardware had been given to the things that I am concerned about, LEAA could have played a substantial leadership role. That is all I said in my prepared statement.

Senator HRUSKA. Well, that hardware item is \$6 million. How far would \$6 million go in payment of additional salaries for policemen who would not have any hardware?

Mr. NEIER. Senator, I do not have the figures in front of me, but I am sure the 22,000 projects or 21,000 projects which LEAA has had which paid for hardware must have cost a great deal more than \$6 million.

Senator HRUSKA. Well, I do not know.

Mr. NEIER. The figure of one-fourth—

Senator HRUSKA. Why do you say that? It is quite a general statement, is it not? Why do you say that without knowing the figures?

Mr. NEIER. Well, Senator, I will tell you why I say that. I can do a little quick computation. My quick computation tells me that if the LEAA which purchased hardware only cost \$6 million, they would average \$300 apiece. In the times I have looked through LEAA computer print-outs, I have never seen a reference to any project that was that cheap. They must have cost a great deal more if 21,000 of 85,000 projects were for hardware.

Senator HRUSKA. Well, maybe you looked at a lot of print-outs, but these figures are put on the adding machine, the computer machine, and here it is. Now, do you want to say that \$6 million is erroneous? If you do, maybe—

Mr. NEIER. Senator, I will be happy to supply you with figures as to what I believe LEAA is spending on hardware during the course of the year. I do not have those figures—

Senator HRUSKA. If you want to document that, that is fine.

Mr. NEIER. I would like to.

Senator HRUSKA. But you heard the representatives of the International Association of Chiefs of Police testify here that they need a certain amount of hardware.

Mr. NEIER. Senator, my statement refers to hardware and it then says that if this kind of emphasis had been given to shifting police efforts to fight crimes of personal violence and crimes against property, we would have a lot safer streets today. That is my concern. I stick with that concern.

Senator HRUSKA. That is fine. That is fine. But I suggest maybe instead of indulging in generalities and harking back to the early days—and I have lived with this legislation since before it was born, and in the initial instance there was a lot of money paid for hardware, and you hear the IACP testimony that sometimes they had to cannibalize cars to get servicable tires on their cars—

Mr. NEIER. Senator—

Senator HRUSKA. In order to go at the high speeds necessary to deal with their problems, and there was a gap of hardware and that gap had to be filled. Thank goodness, LEAA stepped into the picture and since that time those figures and those percentages ballooned that way for a very good reason. There have been constant recitals about hardware being unduly exotic, unduly disproportionately provided. I think it is unjustifiable.

Mr. NEIER. Senator, in my testimony, it was merely a passing reference, and the passing reference was only to suggest that this is one area which at one time seemed to have some demand on LEAA resources. I would like some resources put into another area. If LEAA put those resources into another area they might have a substantial impact for good.

Senator HRUSKA. Very well. Now you are going to—

Mr. NEIER. I want to deal now with the problem of data gathering. Senator, I know you have been involved in efforts to write legislation to control criminal justice data banks. My concern with LEAA is that it has been the mechanism for financing a great many State and local criminal justice data banks. It has done this without any demonstrable concern for the impact of these data banks on the problem of personal privacy. I note that the Administrator of LEAA made a recent speech in which he says this is a continuing high priority to LEAA. He called for the establishment of "a comprehensive and interrelated information system that would include all components of the juvenile justice system—law enforcement, courts, detention and corrections. Related areas involved in the prevention, detection and control of delinquents and diversion, treatment and rehabilitation programs should also be included."

Mr. Velde is calling for a national data bank on children who may have gotten into trouble or might get into trouble sometime in the future. LEAA has already financed programs which have moved in this direction. LEAA funds in California have been used to finance predelinquency programs for children. A young child accused of an offense, such as talking back to a teacher, gets labeled as a predelinquent. The child becomes the target for the expenditure of Federal

funds and entry into a data bank operated by a local law enforcement agency.

LEAA's activities in this area may absolutely destroy the right to privacy. LEAA's expenditures insure that people who have ever gone wrong, or who are thought to have gone wrong or who are thought likely to go wrong will be stigmatized forever. Therefore, they will surely go wrong.

To prevent this, we call for the establishment within LEAA of a privacy impact office. This office would assess whether grants are unduly intrusive on or destructive to the right of privacy. So much LEAA activity has involved the financing of criminal justice data banks that special emphasis should be devoted to protecting privacy against the vast data gathering funded by the Federal Government through LEAA.

Finally, I want to discuss the problem of discrimination on grounds of race and sex in police departments. This is an area where there is a specific congressional mandate. Section 518(c) of the Omnibus Crime Control and Safe Streets Act, as amended in 1973 requires LEAA to terminate the funds it provides to police departments when the LEAA has not secured voluntary compliance within a reasonable time for the nondiscrimination provisions of the law. On a number of occasions, LEAA itself has determined that police departments have discriminated on grounds of race or sex. In a number of cases courts have found that specific police departments have discriminated on grounds of race or sex. Despite the mandatory provisions of section 518(c), LEAA has refused to terminate funds to any police department. It has promulgated internal regulations that are inconsistent with the legislation. The internal regulations simply engage LEAA in endlessly protracted negotiations with police departments. Even though a particular police department has been found to be discriminatory by LEAA itself, LEAA continues to pour funds into that police department.

We have gone to some lengths to document this problem in the written testimony submitted for the record. We would be happy to provide any further information you would like on this particular matter.

In summary, our position is that Congress, before authorizing the expenditure of additional billions of dollars on LEAA, should satisfy itself that LEAA is going to be more effective in fighting crime. LEAA can do this by helping to direct police energies to deal with crimes of personal violence and crimes against property. LEAA funds should not be used to subvert civil liberties by financing racial discrimination and sex discrimination and by improperly intruding on the rights of privacy.

Thank you very much.

Senator HRUSKA. I think you for coming and giving us this information. We will probably be calling on you for additional information as we analyze this testimony and as we have requested other witnesses to do. And so when either the staff gets in touch with you or whenever one of us on the committee or the chairman writes you, we hope that you will find time in your many other duties to favor us with a reply.

Mr. NEIER. We certainly would be glad to comply with any request to us.

Senator HRUSKA. Fine.

[The prepared statement of Mr. Aryeh Neier follows:]

TESTIMONY OF AYREH NEIER ON BEHALF OF THE AMERICAN CIVIL LIBERTIES UNION ON THE L.E.A.A. AUTHORIZATION LEGISLATION

My name is Aryeh Neier. I am the Executive Director of the American Civil Liberties Union. I have written extensively on the issues I will discuss today including a book published early this year entitled *Dossier* and a book on crime to be published in the spring of 1976. I appear here today to testify on behalf of the American Civil Liberties Union.

When Congress adopted Omnibus Crime Control and Safe Streets Act of 1968, President Lyndon Johnson expressed some misgivings about the legislation. President Johnson signed the law because, as he stated at the time, he thought it contained "more good than bad." The "bad" in the law included such provisions as the legalization of wiretapping. The "good" that President Johnson saw in the law was largely in the authorization for the establishment of the Law Enforcement Assistance Administration. As its proponents hoped at the time, L.E.A.A. was to be a bold new venture in the fight against crime.

The American Civil Liberties Union believes that L.E.A.A. is a failure. We have three principal objections to its operations:

1. It has failed to divert state and local law enforcement agencies from their preoccupation with "victimless" or "complainantless" crimes to make them concentrate their resources on the crimes that injure persons and property.

2. It has financed a vast expansion of the data-gathering practices of state and local agencies to the great detriment of the millions of persons stigmatized by the record-keeping practice of law enforcement agencies and to the detriment of society at large which urgently needs to integrate into normal life people who may have caught the eye of a law enforcement agency.

3. Despite an explicit Congressional mandate, L.E.A.A. has failed to obey the law requiring it to deny funds to state and local agencies which discriminate on grounds of race and sex in their employment policies.

VICTIMLESS CRIMES

I will be brief in reviewing L.E.A.A.'s failure to divert law enforcement energies from preoccupation with victimless crimes because in this area, L.E.A.A. has sinned by omission. I will deal at greater length with its sins of commission.

The goal of "safe streets" sought by the Omnibus Crime Control and Safe Streets Act of 1968 is, as everyone will agree, difficult to achieve. It is made all the more difficult by the way local law enforcement agencies have chosen to budget their time. One out of every four arrests and prosecutions in the United States is for the crime of public drunkenness. There is not the slightest evidence that arrest and prosecution makes the least difference to the frequency with which this crime is committed. Most of the victims of the 2½ million annual arrests are persons who are repeatedly arrested for this crime, spend some time in jail and then go back on the street and are arrested again after a few days or weeks. In reality they serve lifelong—if intermittent—jail sentences. While these poor souls are unsightly, they do not make the streets unsafe. Yet if one were to judge by the expenditure of law enforcement energy, public drunkenness is the most serious part of the American crime problem.

More than another two million arrests each year are for other victimless crimes such as possession of drugs for a person's own use (more than 420,000 arrests each year just for possession of marijuana); consensual sexual practices; and in the case of juveniles, such crimes as running away from home, disobeying parents, truancy, associating with bad companions and staying out late at night. The misallocation of law enforcement energy is particularly striking in the case of juveniles. More than half of the 65,000 children in long term detention are there for offenses which would not be crimes if committed

by adults. On the average, a child incarcerated for a crime such as running away or truancy is held in a juvenile prison four or five months longer than a child convicted of a property crime or a crime of personal violence.

L.E.A.A. has spent a great deal of money on hardware for the police. It has given police new kinds of weapons, night sensors, helicopters and extraordinarily elaborate communications equipment. Richard W. Velde, the Administrator of L.E.A.A., says that about one of every four of L.E.A.A.'s 85,000 projects has paid for hardware. I suggest that, if this kind of emphasis had been given to shifting police efforts to fight crimes of personal violence and crime against property, we would have a lot safer streets today.

Fifty per cent of all arrests are for victimless crimes. The American Civil Liberties Union believes these activities should not be crimes. We believe that millions of individuals and society at large are injured by the criminalization of these people by arrest and prosecution. Even those who do not share our views about the wisdom of laws making these activities crimes ought to recognize the folly inherent in the amount of police energy devoted to these matters. Can you imagine explaining honestly to victims of crime that the reason no policeman was on patrol to prevent a rape or a robbery, or to apprehend the rapist or robber, is that the police were too busy booking people on charges of possession of marijuana or too busy arresting a derelict for being drunk on the street? Yet this is the consequence of the priority law enforcement agencies give to enforcement of laws against victimless crimes. It is also a consequence of the failure of L.E.A.A. to give priority to redirection of the energies of law enforcement agencies.

DATA GATHERING

L.E.A.A. has spent hundreds of millions of dollars on the development of data-gathering and intelligence programs. Apparently, this is a matter of highest priority to L.E.A.A. In a May 15, 1975 speech to the National Council of Juvenile Court Judges, L.E.A.A. Administrator Richard W. Velde called for the establishment of "a comprehensive and interrelated information system that would include all components of the juvenile justice system—law enforcement, courts, detention and corrections. Related areas involved in the prevention, detection, and control of delinquents and diversion, treatment and rehabilitation programs should also be included." What Mr. Velde is calling for is a vast national data bank to house records on any child who may have gotten into trouble, is ever alleged to be in trouble or is thought by somebody to be someone who might get into trouble in the future.

In my book *Dossier* (Stein & Day, 1975) I demonstrated the ease with which juvenile records circulate despite the existence of state laws purporting to make them confidential. In calling for this new data bank, Mr. Velde makes the customary obeisance to the desirability of privacy and confidentiality and then blithely ignores all that is known about the ineffectuality of existing privacy protections.

L.E.A.A.'s insensitivity to the value of privacy is demonstrated by its grants and not just by the speeches of its Administrator. As an appendix to my testimony, I have submitted a copy of the May 1975 issue of the ACLU Foundation's *Privacy Report*. It describes the L.E.A.A. funded "predelinquency" programs in California. These are programs to catch children before they are delinquent on the basis of predictions that they may become delinquent. The records of these predictions of delinquency are made available to law enforcement agencies and others to the detriment of the children labelled. This kind of activity is not unique to California. The May 1975 *Privacy Report* also describes L.E.A.A. funded predelinquency programs in Hawaii, Maryland and Virginia and, no doubt, there are many similar programs elsewhere which could have been described.

L.E.A.A. is also funding state data banks housing arrest records, conviction records and intelligence records. Although L.E.A.A. provided the funding for Project Search, which developed some minimal protections for privacy in the collection and dissemination of arrest and conviction records, L.E.A.A. has been unwilling to insist that state and local agencies adhere to the Search standards as a condition for getting financing from L.E.A.A. The consequence, we believe, is that L.E.A.A. is making our streets more unsafe. It is financing ever more efficient mechanisms for insuring that once a person is arrested,

even if not convicted, that person's arrest record circulate promiscuously. People with conviction records and people arrested and never convicted are, thereby, denied job opportunities and often forced into lives of crime because alternatives are denied to them. In its headlong drive to finance the collection and dissemination of data, L.E.A.A. is not serving a law enforcement function. Arrest records and conviction records have little utility to law enforcement agencies in combatting crime. Their principal utility is to public and private employers, licensers, creditors and insurers in denying benefits to people stigmatized by these records. (See Dossier, supra, at pages 119-132 for a discussion of the inutility of arrest and conviction records to law enforcement agencies in fighting crime).

L.E.A.A. has also funded such surveillance devices as television monitors to watch whole sections of cities. New York City recently discontinued television surveillance of Times Square because it was useless in apprehending criminals. Even so, L.E.A.A. is spending the taxpayer's money on such machinery which invades privacy and offers citizens no protection against crime.

I have only scratched the surface of L.E.A.A.'s part in bankrolling the national drift in the direction of 1984. There is a great deal more that should be said on this subject. It might be appropriate for Congress to investigate L.E.A.A. funding of programs that intrude on privacy or to require such investigation by the new Privacy Protection Study Commission created by the Privacy Act of 1974. Whether or not such an investigation is undertaken, we urge that any legislation authorizing extension of L.E.A.A. require the establishment of a privacy impact office within L.E.A.A. This office would evaluate all grants to determine whether they foster intrusions on privacy, recommend against funding those deemed improperly intrusive on privacy, encourage the development of proposals for funding with protections for privacy and evaluate the performance of grant receiving agencies to determine whether their actions are destructive to privacy. The privacy impact office would make an annual report to Congress.

Let me now turn to operations of L.E.A.A. which are already governed by explicit Congressional mandate but where that mandate has been ignored.

RACE AND SEX DISCRIMINATION IN POLICE DEPARTMENTS

Minorities and women are severely underrepresented in our state, county, and municipal law enforcement agencies. The pervasive discrimination practiced against them by law enforcement agencies is startling.

In 1973, the International Association of Chiefs of Police reported that fewer than 4% of all sworn officers were minority persons and fewer than 2% were women. The IACP also reported some of the practices accounting for the small number of minorities and women: nearly all police departments use written tests, which generally have a strong discriminatory impact and which are seldom related to job performance; that 72% of all police departments reject applicants with a juvenile arrest record without a subsequent conviction, a requirement which eliminates from police employment almost every black male in this country; and that 97% of all police departments maintain minimum height requirements, a criterion with obvious discriminatory impact on women, Hispanic Americans and other minorities.

In 1974, a similar survey, conducted by the Race Relations Information Center on the race and sex composition of state law enforcement agencies, revealed that 96.6% of all sworn state police officers were white males, only 1.5% were blacks, and only .3% were women. The only state police department with an appreciable percentage of black officers was the Alabama State Highway Patrol (4.5% black), an agency under a federal court order to hire more blacks since 1971.

The Alabama State Patrol is not the only law enforcement agency judicially determined to have engaged in illegal discrimination. More than 50 law enforcement agencies across the country have had similar decrees entered against them in the past few years.

Unfortunately, these legal precedents have had little effect on law enforcement agencies not yet sued. Only two weeks ago, for example, the Justice Department filed suit against the New Jersey State Police (a department of 1,705 sworn troopers, of whom only 23 are black and only one is a woman) and the Michigan State Police (a department with 2,007 sworn officers, of whom only 25 are black and none is a woman).

This discrimination is financed by L.E.A.A. For example, the New Jersey State Police received in excess of \$8,000,000 in L.E.A.A. funding, and the Michigan State Police received in excess of \$10,000,000 in L.E.A.A. funding. One arm of the Justice Department is financing the very practices another arm of the Justice Department contends are discriminatory.

In the past six years, L.E.A.A. has awarded more than one and a quarter billion dollars to law enforcement agencies, even though virtually all the recipients of funds engage in blatantly discriminatory practices.

L.E.A.A.'S CIVIL RIGHTS COMPLIANCE MANDATE

It is illegal for L.E.A.A. to award federal funding to discriminatory recipients. Such funding involves L.E.A.A. in that discrimination, in violation of the United States Constitution and also in violation of the explicit Congressional mandate set forth in Title VI of the Civil Rights Act of 1964, of a similarly explicit mandate in § 262 of the Juvenile Justice and Delinquency Prevention Act, and of the even stronger Congressional mandate set forth in § 518(c) of the Omnibus Crime Control and Safe Streets Act, as amended. Indeed, as Richard Velde recently commented at an L.E.A.A. conference: "I think it is safe to say that we now probably have the most comprehensive set of civil rights provisions of any legislation."

L.E.A.A.'s Title VI mandate—and L.E.A.A.'s failure in enforcement of Title VI was explored and documented in hearings held by the House of Representatives in 1973.

Thereafter, § 518(c) of the Omnibus Crime Control and Safe Streets Act was amended in 1973 to make L.E.A.A.'s civil rights compliance obligation stronger than under Title VI. In some respects, § 518(c) requires L.E.A.A. to attempt voluntary compliance when it determines that a recipient was engaged in discrimination or had failed to comply with "an applicable L.E.A.A. regulation." Where voluntary compliance was not secured within a "reasonable time," however, L.E.A.A. was given to discretion, as it had been given under Title VI, whether to terminate L.E.A.A. funding. Congress required that L.E.A.A. "shall exercise the powers and functions provided in section 509 of this title [the fund termination provisions], and is authorized concurrently with such exercise" to undertake other actions, including referral to the Justice Department for suit and exercise of its Title VI powers.

As explained by Congresswoman Barbara Jordan on the floor of the House, the effect of her amendment was "to require L.E.A.A. to first use the same enforcement procedure which applies to any other violation of L.E.A.A. regulations or statutes." Representative Jordan continued "This amendment was necessary to reverse L.E.A.A.'s traditional reliance on court proceedings to correct discrimination rather than undertaking administrative enforcement of civil rights requirements."

As Representative Jordan concluded: "The civil rights provisions of this bill give L.E.A.A. the necessary powers, and require the establishment of an effective civil rights program."

L.E.A.A.'S INTENTIONAL DISREGARD OF ITS CIVIL RIGHTS MANDATE

In the intervening two years, however, L.E.A.A. has not only failed to establish an effective civil rights program but it has intentionally disregarded the fund termination mandate of § 518(c).

Catherine Higgs Milton, then Associate Director of the Police Foundation, made these comments to Richard Velde; to Herbert Rice, Director of L.E.A.A.'s Office of Civil Rights Compliance; and to other members of L.E.A.A.'s staff at a conference held by L.E.A.A. last February.

"I have been preparing for this conference. I made some calls around the country to see what the opinions of the departments were about the way L.E.A.A. has been enforcing civil rights compliance.

"Generally, the departments which are the ones that have been trying hard to make improvements—such as Washington, D.C.—say that they have had no contacts with L.E.A.A. for several years. They say that L.E.A.A. does not know what they are doing. In fact, we have done everything on our own without any suggestions from them or any force from them, is what they tell me. One person told me that, as a matter of fact, he had been a little

worried because he had not filed his EEO plan; that they had been working on it but actually, as he thought about it, he did not think that L.E.A.A. would even know that they had not filed it or even cared about whether they filed it. That is the answer I get from the good departments.

"From the departments which, I would say, are the ones that are avoiding making changes, I got the impression that their view is that, again, L.E.A.A. is not even going to find out or, if they do, there will be ways to avoid making changes.

"I would not say this, except to your face. In fact, I have not said this any place else. I hope that you will appreciate that I really mean to be constructive and try to put things bluntly because I feel that it is so important."

Ms. Milton's comments are readily supported by even a brief review of L.E.A.A.'s actions and inactions.

L.E.A.A.'S REGULATIONS STATE A PREFERENCE AGAINST FUND TERMINATION

L.E.A.A.'s regulations directly contravene its simple mandate under § 518(c) that it "shall exercise the powers and functions" of fund termination. The only L.E.A.A. regulation on this subject states a clear preference against an administrative remedy:

"Where the responsible Department official determines that judicial proceedings are *as likely* or more likely to result in compliance than administrative proceedings, he shall invoke the judicial remedy rather than the administrative remedy." 28 C.F.R. § 42.206(2)

A further review of L.E.A.A.'s regulations under § 518(c) and those under Title VI (compare 28 C.F.R. §§ 42.201 *et seq.* with 28 C.F.R. §§ 42.101 *et seq.*) reveals that L.E.A.A. has chosen to make no distinction between its optional remedies under Title VI and its mandatory fund termination remedy under § 518(c).

Despite this blatant disregard of Congress' mandate, one critic of L.E.A.A.'s civil rights enforcement effort—Jeffrey Miller, Staff Director, Federal Civil Rights Evaluation, United States Commission on Civil Rights—indicated at L.E.A.A.'s February conference that this issue is probably academic in view of L.E.A.A.'s overall disregard of civil rights enforcement:

"It appears to me, for example, with regard to the question of termination—administrative termination vs. a lawsuit by the Department of Justice—that that question rarely gets reached. In fact, what happens is that negotiations take two-and-a-half years or three years: that is a good way to spin the wheels."

The issue, however, is not solely academic. L.E.A.A. has reached the question of termination on several occasions. Each time L.E.A.A. has declined to follow the mandated administrative remedy.

An example of L.E.A.A.'s disregard of § 518(c) is the Philadelphia Police Department, where L.E.A.A. made a determination of civil rights noncompliance in the fall of 1973. I nearly 1974, L.E.A.A. concluded that voluntary compliance could not be achieved. This chronology is described in a mailgram from Herbert C. Rice, Director of L.E.A.A.'s Office of Civil Rights Compliance, to Philadelphia Police Commissioner Joseph O'Neill, dated February 2, 1974, where Mr. Rice stated, "that L.E.A.A. has determined that the Philadelphia Police Department has failed to comply with the Equal Employment Opportunity regulations, 28 C.F.R. § 42.201 *et seq.* Subpart D [the § 518(c) regulations]. The L.E.A.A. has further determined that compliance with these regulations cannot be achieved by voluntary means." At this crucial point, where § 518(c) mandates fund termination, L.E.A.A. refused to initiate termination procedures. Instead, L.E.A.A. referred the matter to the Civil Rights Division of the Justice Department.

Although the Civil Rights Division ultimately did file suit in Philadelphia (after a private suit had already been filed) that litigation is still pending, and no trial has yet been held. In the meantime, L.E.A.A. had continued to fund discrimination in Philadelphia more than four million dollars so far in 1975.

L.E.A.A. HAS NEVER USED FUND TERMINATION

L.E.A.A. has never used the fund termination procedure mandated by § 518(c).

Apparently, L.E.A.A. has not the slightest idea of what fund termination entails. At L.E.A.A.'s February 1975 conference, the following exchange oc-

curred between the Chief of L.E.A.A.'s Compliance Review Division and Jeffrey Miller of the United States Commission on Civil Rights:

Chief of the Compliance Review Division: "I have a question of Mr. Miller. In talking about sanctions and administrative cutoffs, is the suggestion either that the staff of the Office of Civil Rights conduct the hearing—in which case I have some questions about cutting out a significant part of any pre-award or compliance review or complaint program for a time—or is it supposed to take the HEW route and have an entire staff of administrative hearing lawyers to litigate these things?"

Mr. MILLER. "I am glad you brought that up. I don't think the staff of the Office of Civil Rights should conduct the hearings. The hearings should be conducted by L.E.A.A.'s General Counsel's Office. To the extent that you have to appoint the lawyer or lawyers, depending on the magnitude of the workload, I think this is a separate matter.

"What HEW has done is that within their Office of General Counsel they have a branch called civil rights. They conduct all of the hearings. Obviously, if you go to a hearing where a substantive matter is being disputed, then your file would have to be adequate.

"This is the same thing I felt about the research.

"To sum up, I think the Office of Civil Rights Compliance ought to be a civil rights compliance enforcement unit."

Although this exchange occurred eight months ago, a year and-a-half after § 518(c) was amended to require fund termination, L.E.A.A. today has yet to promulgate regulations or otherwise determine the procedures applicable to fund termination hearings.

L.E.A.A. would not have to look far to find such procedures. Fund termination procedures have been used by HEW for more than a decade—and used extensively by HEW during periods such as the mid-1960's when HEW initiated more than 600 fund terminations, 200 of which went through full administration hearings.

L.E.A.A., however, appears to have no intention of initiating fund terminations. Its goal, as stated by L.E.A.A.'s Director of the Office of Civil Rights Compliance, is only to talk about fund termination, not to do anything about it: "We talk about fund termination, but our main objective in this program is to secure compliance. To the extent that it is humanly possible we try to secure that compliance by voluntary means." Mr. Rice could have added that L.E.A.A. tries to secure voluntary compliance not only however humanly possible but also no matter how long it takes, even if forever.

L.E.A.A.'S COMPLAINT PROCEDURE

Although L.E.A.A. maintains a Complaints Division, it has never publicized its existence to the general public, to persons discriminated against by law enforcement agencies, or to persons who have filed charges of discrimination with the EEOC against law enforcement agencies.

Despite its secrecy, L.E.A.A. has received more than 300 complaints of discrimination. A breakdown of these complaints and of L.E.A.A.'s response to them indicates that more than 90% of all of the complaints alleged employment discrimination against recipients of L.E.A.A. funding; that L.E.A.A. deems "inactive" all complaints against police departments where federal or state court litigation is pending against the police department (thereby continuing to finance the very practices being challenged in court and usually determined to be unlawful); and that at least 25 of the complaints which L.E.A.A. deems to be "active" date back to 1973 and even to 1972.

Again, it is apparent that even with regard to those complaints which L.E.A.A. does process, L.E.A.A.'s refusal to use the fund termination mandated by § 518(c) has allowed it to continue talking about voluntary compliance indefinitely.

L.E.A.A.'S COMPLIANCE REVIEWS

In the six years of its existence, L.E.A.A. has conducted only sixteen compliance reviews of recipient law enforcement agencies. Only one has been conducted since 1974.

Although these very few compliance reviews did reveal a variety of discriminatory practices, L.E.A.A.'s predisposition against fund termination

has allowed it to continue to fund law enforcement agencies it knows to be engaged in unlawful discrimination.

An example: one of the sixteen law enforcement agencies reviewed was the Portland Police Bureau of Portland, Oregon. After its December, 1972 compliance review, L.E.A.A. determined that the Portland Police Bureau was engaged in extensive sex discrimination, that it was not in civil rights compliance, and that four "immediate steps" were "require[d]": (1) the segregated and lower paying classification of "Policewoman" must be abolished; (2) female officers must be given equal opportunity for promotion; (3) previously denied training must be given to female officers to allow them "to fairly compete in promotional examinations"; and (4) a "new recruiting effort" must be undertaken to attract female applicants. Although the Portland Police Bureau five months later, in June, 1973, complied with the first of these requirements, it has yet to comply with the other three requirements. It also has engaged in other sex discriminatory practices such as finally employing a female officer as Project Director of an L.E.A.A. funded anti-crime project but paying her a lower salary than the previous Project Director, a male officer. All the while, of course, L.E.A.A. has provided millions of dollars to the Portland Police Bureau.

FEDERAL FINANCING OF DISCRIMINATORY PRACTICES

Here are some examples of the consequences suffered by individuals because of L.E.A.A.'s disregard of § 518(c). These are among the persons who have sought the aid of the American Civil Liberties Union in challenging L.E.A.A.'s default:

Bruce Bailey, a black, has been twice denied employment by the Indiana State Police Department on the basis of its discriminatory and unvalidated written tests. The Department, which has only three blacks among its 935 sworn state troopers, was judicially determined, in July, 1975, to have unlawfully discriminated in the use of its written tests, promotion policies, and recruitment practices. Since the federal court entered only a declaratory judgment, deferring the imposition of specific relief until later this fall, Mr. Bailey requested L.E.A.A. to suspend funding to the Indiana State Police. L.E.A.A. refused and continues to refuse to suspend any funding. The Indiana State Police Department has received more than \$3,000,000 in L.E.A.A. funding.

Penelope Brace has been employed as a "policewoman" with the Philadelphia Police Department since 1965. The Department limits women to fewer than 90 "policewoman" positions although men may qualify for more than 5,000 positions. After filing a charge of discrimination with L.E.A.A., Officer Brace has been repeatedly transferred, placed under surveillance, given a psychiatric examination and denied promotions on the grounds that she is not a "policeman," and fired by the Department. As I mentioned earlier, L.E.A.A. made a determination in 1973 that the Department was unlawfully engaged in sex discrimination, but it has continued to provide L.E.A.A. funding to Philadelphia. To date the Philadelphia Police Department has received more than \$8,000,000 in L.E.A.A. funding.

Ollie Glover is a black police officer with the Richmond, California, Police Department. He has been denied promotion on the basis of discriminatory and unvalidated written tests and oral interviews. Although the population of Richmond is 40% black, only 11% of the police officers are blacks, and only three blacks have ever been promoted. L.E.A.A. failed to respond to a 1973 complaint filed against the Richmond Police Department. When Sgt. Glover filed another complaint with L.E.A.A. this past summer, L.E.A.A. declined jurisdiction because he had sued the Department in the meantime. L.E.A.A. funding continues.

Kristen Heemstra, 5'8½" woman with an AA degree in law enforcement has been denied employment for failing to meet 5'9" minimum height requirements of the police departments in Des Moines, Ames and Newton (Iowa), all recipients of L.E.A.A. funding. L.E.A.A. has not responded to her complaint of discrimination.

Joel Michele Schumacher, another woman with an AA degree in law enforcement, has been denied employment for failing to meet the 5'8" height requirement of the New Orleans Police Department, an employer of 1,139 police

officers, only 19 of whom are women. Although L.E.A.A. made a determination of sex discrimination in 1973, it has not terminated the L.E.A.A. funding to New Orleans. L.E.A.A. has deemed Ms. Schumacher's complaint to be "inactive" because she has sued the Department.

Jennie McAllister, a woman of Chinese descent, is studying toward her AA degree in police science and working toward her brown belt in karate. She was denied employment for failing to meet the Honolulu Police Department's minimum height requirement—which was determined by L.E.A.A. in 1973 to be sex discriminatory. After Ms. McAllister had sued both the Department and L.E.A.A., in separate lawsuits, Honolulu last month dropped its discriminatory height requirement. L.E.A.A., however, was always in the background providing uninterrupted funding.

Ray Clark is a black police officer with the Oakland Police Department, and Kent McKinney, also black, was one of the few Oakland police officers who was a college graduate. After Mr. McKinney was discharged during his probationary period, he and Ray Clark, in the summer of 1974, complained to L.E.A.A. Thereupon Officer Clark was suspended, given duty assignments so as to preclude him from continuing in law school, and denied promotion. Only 12% of the Oakland police officers are black, and only 4% of the command officers are black, although Oakland is now nearly 45% black. Oakland has received more than \$1,000,000 in L.E.A.A. funding, and it continues to receive such funding.

Roberta Ledyard and Penny Orazetti are female police officers with the Portland Police Bureau, an employer of more than 700 police officers, only 22 of whom are women. Officers Ledyard and Orazetti have been denied promotions, transfers, and equal pay. Despite L.E.A.A.'s 1973 determination of sex discrimination, Portland has received more than \$5,000,000 in uninterrupted L.E.A.A. funding.

Robert Booth and William Harris are black deputy sheriffs who have been denied promotions by the Wayne County Sheriff's Department. In a lawsuit filed by Officers Harris and Booth, a federal court in July, 1975, held that the Department's promotion procedures were discriminatory and unlawful, and entered a preliminary injunction against further discriminating promotions. Deputy Sheriff Booth urged L.E.A.A. to hold up its funding. L.E.A.A. refused. Wayne County has received nearly \$4,000,000 in L.E.A.A. funding.

These are but a few of the people upon whom L.E.A.A. has turned its back. There are many more. In every such case, L.E.A.A. has involved the federal government in a knowing and willful joint venture in discrimination.

Since I agree with Mr. Velde that Congress has already enacted for L.E.A.A. one of the most comprehensive packages of civil rights enforcement legislation which exists today, the only additional legislative steps you could take if you decide to extend L.E.A.A.'s funding would be to impose restrictions and time periods upon L.E.A.A.'s existing power and authority. For example, L.E.A.A. could be directed

1. To require recipients of L.E.A.A. funding to post public notices advising the public about the powers and functions of L.E.A.A.'s Office of Civil Rights Compliance.

2. To establish a liaison with the EEOC so as to receive from the EEOC all complaints of discrimination against law enforcement agencies.

3. To act upon all complaints regardless of the pendency of local litigation against a respondent law enforcement agency.

4. To require all potential recipients to submit their Equal Employment Opportunity Programs to L.E.A.A. with their grant applications.

5. To conduct a minimum number (such as 100) of on-site, pre-award compliance reviews each fiscal year—a process which would be immensely simplified by the potential recipients' submission of their Equal Employment Opportunity Programs to L.E.A.A. with their grant applications.

6. To complete all investigations within sixty days of receipt of a complaint, and of receipt of an Equal Opportunity Program.

7. To make determinations of compliance or noncompliance within seventy days of receipt of a complaint, and of receipt of an Equal Employment Opportunity Program.

8. To conduct voluntary compliance negotiations for no longer than sixty days after a determination of noncompliance.

9. To award no grants and to allow the drawing of no funds where a recipient or potential recipient is not determined to be in compliance; and, where there has been no determination of compliance, to award no grants and to allow the drawing of no funds until the recipient or potential recipient is adjudged to be in compliance by the administrative hearing procedure required by § 509 of the Act.

This listing is not exhaustive. It is merely representative of the additional requirements which should be imposed upon L.E.A.A. Parenthetically, nearly all of these requirements, in identical or similar form, have been imposed by legislation or by administrative regulation upon other federal civil rights agencies such as the EEOC, the OFCC, and the Office of Revenue Sharing's Office of Civil Rights.

Finally, in addition to the above requirements, and particularly in view of L.E.A.A.'s civil rights track record, L.E.A.A. should be required to submit to Congress annual reports on its own civil rights compliance, i.e., reports on its compliance with § 518(c).

With a view toward poetic justice, with the emphasis on justice, non-compliance with § 518(c) should be used to deny further appropriations to L.E.A.A.

CONCLUSION

L.E.A.A. grants have reinforced the misdirection of energies that is endemic in law enforcement agencies. L.E.A.A. grants have financed wholesale data-gathering and invasion of privacy. L.E.A.A. grants, despite the clear requirement of law to the contrary, have financed discrimination in police departments on the basis of race and sex.

This is a sorry record. Before Congress authorizes the expenditure of additional billions of dollars on L.E.A.A., Congress should satisfy itself, and us, that L.E.A.A. will both be more effective in fighting crime than it has been to date and that it will not employ federal funds to subvert civil liberties.

Senator HRUSKA. The hearing will recess until 10 a.m. on November 4 in room 2228.

The meeting is adjourned.

[Whereupon, at 11:15 a.m., the subcommittee recessed to reconvene at 10 a.m. on Tuesday, November 4, 1975.]

AMENDMENTS TO TITLE I (LEAA) OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

TUESDAY, NOVEMBER 4, 1975

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 4221, Dirksen Senate Office Building, Senator Roman L. Hruska presiding.

Present: Senator Hruska (presiding).

Also present: Paul C. Summitt, chief counsel; Dennis C. Thelen, deputy chief counsel; and Mabel A. Downey, clerk.

Senator HRUSKA. The subcommittee will come to order.

The Chairman has asked that I take his place, because he has other official Senate duties to perform. We will continue hearings on the bills, which seek to enact amendments to the Omnibus Crime Control and Safe Streets Act of 1968. Our first witness this morning is the Honorable Philip W. Noel, Governor of the State of Rhode Island.

The Governor is no stranger to these precincts. He was a very valuable member of the staff here some years ago, and we welcome him back now to this meeting. Governor, you have filed a statement, I understand. You may either read it or highlight it, as you choose.

STATEMENT OF HON. PHILIP W. NOEL, GOVERNOR OF RHODE ISLAND

Governor NOEL. Thank you very much, Mr. Chairman.

I would like to thank you for the opportunity to testify on this important piece of legislation, and also I would like to acknowledge how pleasant it was to renew our acquaintance after so many years. I would ask, Mr. Chairman, that my prepared statement be admitted in its entirety and made a part of the record; and I will attempt to highlight that testimony, rather than to read it.

Senator HRUSKA. The request is granted. It will be incorporated in full.

[The prepared statement of Governor Philip W. Noel follows:]

STATEMENT OF PHILIP W. NOEL, GOVERNOR OF RHODE ISLAND

INTRODUCTION

Mr. Chairman, I appreciate this opportunity to appear before you and members of your committee to present testimony on a public policy issue important

to the well being of the people of my State; indeed to citizens throughout our Nation.

I support reauthorization of the crime control act substantially as proposed in Senate 2212. I believe it to be essential public policy to continue this program through 1981.

In addition, I support the authorization levels as proposed and urge particular attention to yearly appropriations. It is important to make certain that funding levels are not reduced at the exact time when the management of Federal/State criminal justice efforts are producing sustained, goal directed actions within the States.

For example, the fiscal year 1976 appropriation for the Law Enforcement Assistance Administration was, overall, approximately 20% less than for fiscal year 1975. The effect of that cut on a State like Rhode Island was dramatic. It meant that we had approximately \$400,000 less this year than last to support Criminal Justice Policy initiatives that are critical, programs that the state simply cannot afford to fund.

Adequate yearly appropriations must be accompanied by authority to administer these finite resources in accordance with the reality of crime problems within a particular state. This committee must resist efforts further to fractionalize the L.E.A.A. program. I refer to arguments designed to move toward increased categorization and pre-determined, specialized areas. That legislative direction will dramatically increase the difficulty of assigning authority and accountability for the management of this national effort. Moreover, comprehensive criminal justice policy directions will be weakened while the intended impact of Federal funding will be diminished in a maze of pet projects.

The "block grant" concept is working in the field of criminal justice. Comprehensive problem assessment—followed by goal directed, sustained, policies and programs—; these are the essential management tools that the states must have. It is especially critical—at this juncture of the law enforcement assistance administration program—that these authorities, and commensurate responsibility, be firmly set at state level. This will ensure the comprehensive overview necessary to coordinate policy efforts and to improve measurably the timely and equitable administration of criminal justice within the states.

THE RHODE ISLAND EXPERIENCE

I should like briefly to review some of my personal views concerning the L.E.A.A. program. I believe that Rhode Island's early experiences are most probably quite similar to those which occurred throughout the nation.

I will not here attempt a detailed discussion of specific examples of past problems in our state, or in other sections of the nation. These are rather well known, especially to members of this committee. It is important, however, to focus for a few moments on the reasons why those problems most probably occurred.

From the beginning, the principal operational impediment was the absence of systematic policy management and program administration. Substantial funding was made available before the intergovernmental system was prepared effectively and efficiently to execute administrative direction of the program. While there was "competition" for funds, it was not among those most in need, nor directed at priority criminal justice problems. Rather, funding went to those criminal justice agencies most able, at that time, to act vigorously in applying for available fiscal support.

Early fund awards substantially reflected the perceptions and attitudes of criminal justice practitioners themselves. Historically, they had always believed that they were "going it alone." Most police officials, for example, will acknowledge that until recent years they believed that the crime fight was theirs alone. They were largely unaware of the critical role played in crime reduction efforts by other major segments of the criminal justice system.

Funding patterns, then, essentially reflected the traditional fractionalization of the criminal justice system, we know that this kind of program administration did not produce the observable, measurable results that tell us to what extent we are proceeding toward identified policy goals. Indeed, when we think about it, that type of funding policy tends to reinforce the unrelatedness that was so typical of criminal justice agencies in the past. There was a fair amount of this negative tendency in Rhode Island.

Had the L.E.A.A. program been structured differently—had authority and accountability for its execution been murky—I would have been unable to translate my growing concern into corrective action. But because the L.E.A.A. program as presently constituted identifies the state's chief executive as the responsible individual, I was able to proceed with precise policy actions to meet those responsibilities.

Those actions focused upon the management—the administration of the L.E.A.A. program within our state. As you know, the statute provides for a representative policy board. In effect, this is the board of trustees—individuals charged with the crucial responsibility for policy oversight and direction. We substantially reconstituted our policy board, being careful to appoint people willing and able to make the personal commitment so essential to a true trustee role in public policy management.

During the same time frame, we restructured the staff, achieving an administrative operation essential to the day-to-day procedural management of the statewide program. I should like this committee to know that L.E.A.A. supported these efforts fully with timely technical assistance, a solid example of federal/state cooperation in joint pursuit of mutual criminal justice goals.

The results thus far have been gratifying. I feel confident, as Governor, that we now have a steady, firm hand on the administration of the state's criminal justice policy initiatives.

The authority/accountability relationships specified by the authorizing statute made possible the policy actions I have discussed. Thus, I urge this committee especially to retain those features of the crime control act that respond to the acknowledged maxim that crime reduction problems, and the administration of criminal justice, are public policy responsibilities best discharged by the states.

My emphasis on the management of the L.E.A.A. program is because I believe that to be the key to the success of this federal/state effort, the impact of action projects—the effect of these upon the timely and equitable administration of justice—these goals are, in my judgment, a function of the quality of program administration.

I ask this committee, therefore, to examine carefully the funds appropriated for Part B to support the act's administration at state level. This is especially critical for small states like Rhode Island where a population formula standing alone will work a hardship. Basic management systems must be structured and staffed to ensure program and fiscal integrity. Thus, I urge analytical evaluation of the need to increase the base amount of funding provided to those states such as mine that do not meet population criteria.

I have reviewed briefly the experience of my state. I believe it to be quite similar to what others have learned across the nation. The L.E.A.A. program has come through a period wherein the federal/state partnership grappled with difficult management problems and relationships. I believe that these have been largely overcome, and the policy management of the program has become increasingly strong and directive.

CONCLUSION

As Governor of Rhode Island, representing what I believe to be the best interests of the people of my state, I support reauthorization of the crime control act basically as it is presently constituted.

Authority and accountability for the administration of the L.E.A.A. program at state level must remain clear. Such delegation is best understood and utilized when ultimate responsibility rests in a single office, that of the state's chief executive.

Congress must resist efforts to fractionalize this program. Categorical funding initiatives will serve only to dilute cohesive policy management. Trends toward program specialization must be halted.

The L.E.A.A. program is a federal/state undertaking. The responsibility for its achievements—within a particular state—rests with that state. That is the point of program accountability. Authority to discharge that policy responsibility—within a state—must also rest at state level. This assures the ability to identify crime problems and construct action responses with analytical attention to the unique demographic characteristics of that state.

Therefore, efforts to particularize further the L.E.A.A. program with statutory mandates and prohibitions must be resisted.

I spoke earlier of the history of the criminal justice system and the historical perception of its leading practitioners that they were in the crime fight alone. They now know, and we know, that systematic policy efforts, coordinated across the criminal justice system, are the only real hope of achieving crime reduction and justice improvement goals.

The L.E.A.A. program—melding federal, state, and local resources and talents—is the leading edge of this historical movement. It must remain strong if we are to succeed with the improvement of timely, equitable criminal justice administration in this country.

Governor NOEL. Mr. Chairman, my testimony is in support of reauthorization of the Crime Control Act, substantially as proposed in S. 2212. I believe that it is essential to public policy to continue this program through 1981.

I would like to point out that I support the authorization levels, as proposed, and urge that particular attention be given to yearly appropriations. It becomes very difficult to work with this program when we do not have a relative certainty concerning the extent of appropriations from year to year. I would point out that last year, in our small State, a State of less than 1 million people, the funding decision resulted in a reduction in excess of \$400,000. Our total program is less than \$2 million, and that kind of funding uncertainty makes long-range planning for this program rather difficult.

So, I would like to point out what I consider to be the importance of a steady or a predictable annual appropriation for this program. The point that I make, basically, in this prepared statement, Mr. Chairman, is that I feel that this program is now beginning to work, and work very well in my State and in other States across this Nation, where I have had an opportunity to observe the program. And I would resist and oppose those concepts that call for a fractionalization of this program.

I know that the mayors have been in, and they feel that perhaps there should be more emphasis on direct grants to the cities. I know that some of the various components of the criminal justice system feel that there should be specific grants to the court systems, or to other components of the total criminal justice system in this country. I think that that would be a dramatic step in the wrong direction, because the great value of this legislation has been that, for the first time with this legislation and program in place, States are beginning to look at the criminal justice system as a comprehensive system; and for the first time in this Nation, we are beginning to move away from the idea that each component of the criminal justice system is going it alone.

For many years, the police officers of this Nation, and the law enforcement people, felt that the whole responsibility was theirs. I know in my State, and in the northeast, we did not have that wholesome attitude where the law enforcement officials looked at the court system, looked at probation and parole and corrections, as all part of a comprehensive program designed to obtain the same goal. And it is because of this legislation that we are now, at least in my part of the country, beginning to think of a criminal justice system in the true sense of that phrase. And, although the mayors are certainly well-intentioned, the proponents for direct grants to courts are well-intentioned, that would have a tendency to destroy what I think has been the greatest importance and the greatest contribution

of this Federal program; and that is to get the people in the country, those in the criminal justice system, to start to think of it as a system and to develop a goal-oriented approach toward solving crime problems in this country.

And that is the basic gist, Mr. Chairman, of this testimony. I know that the program had some rocky going when it first got started. We had great difficulty in my State making this program work well. It is only my opinion—perhaps shared by some others—but I think we got into difficulty in the early implementation of this program because there has long been such a need for this kind of direction; and what happened was that the funds were passed out not on the basis of any perception of what the criminal justice goals should be, but rather on the basis of how the agencies were able to respond.

If a police unit in a given city was diligent, and they understood the law, and they moved quickly, they were more apt to get a greater piece of the grant money in that particular area than they deserved if the money were given out on the basis of what the real criminal justice goals should have been in that state. So the management system was not in place, in a position of readiness to undertake the significant responsibilities that came as result of this visionary legislation.

I think I can speak for my State, because there has been a central focus and the executive office has had a firm hand in the direction of the program we were able, with the great cooperation of Mr. Velde and his people, both here in Washington and in the region, to straighten out our program, so that it is now working, I think, very very well. I know that in neighboring states in New England, they had some really start-up problems, but then those States were able to respond and to get back on the track and start to function as the program was originally intended to function by those who designed it in Congress.

So, I would assume that is probably the case across the Nation; that some of these early problems have been resolved, and we are now moving in a very positive way to handle our criminal justice responsibilities comprehensively under the direction that is contained in this Federal program. That is basically the point that I make, Mr. Chairman, in this prepared testimony.

If you have any questions, I would be pleased to respond to them.

Senator HRUSKA. I have gone over your statement, Governor, and it is very well-balanced, reflecting—in my judgment—a practical, first-hand knowledge by a Governor of a plan which we hope will continue to improve.

There has been some testimony in previous hearings on these bills about whether the legislature should have a greater hand in the administration of this plan, or whether it should be for the Governor to continue in the role as being in charge of the law enforcement program within the state. What thoughts have you on that?

Governor NOEL. Well, as you well know, Mr. Chairman, the legislation provides for the establishment of a governance agency which is similar to a board of trustees. Now, I know in my State we have legislators who are appointed, who serve on that board, so that we have legislative contribution and input, and we have direct liaison

between the criminal justice planning agency, the management agency, and the General Assembly in our State, the House and Senate.

I think, because of this requirement for this kind of representative administrative group, that every state, under the legislation as it is presently written, has that opportunity to involve the general assembly, or their legislative branch of government. I also point out that we have to put up a fairly significant amount of State money as part of our share of programs under the criminal justice agency; and of course, the appropriation function in, I assume, every State belongs to the general assembly of that State.

So, they do participate, I think, in about the right perspective. It is an executive responsibility, basically, and as long as they are not shut out, and have a chance to participate, I think it works well.

Senator HRUSKA. There has been some complaint by some witnesses that the guidelines and regulations of the LEAA from Washington were very ponderous, burdensome, voluminous, and that they were really obstructing and blocking and frustrating state and local agencies in the prosecution of their law enforcement program. Have you had any discussion of that phase of the activities of LEAA?

Governor NOEL. I think there is some truth in that testimony, Mr. Chairman. We have been able to get out from under that maze of bureaucratic entanglement, because we have had such extreme co-operation from those who presently administer the program out of Washington. I do think, however, that the agencies themselves can do a lot to cut much of that compliance out of the system.

We had a great deal of trouble in the early going because of the complexity that evolves from all of those rules and regulations, and I think some of them result in strictures that were not intended by the Congress. I think the bloc grant concept was more in the mind of Congress than now appears to be the case, as a result of some of the regulations and the rules. Out of fairness to Mr. Velde and his staff and the people in my region in New England, it has not been as great a problem lately, because of the quality of the personnel who have been able to assist us through this maze of requirements. But I, for one, do not see a need for all of that regulation. But I cannot make that as a critical point. I do not think it is fatal.

Senator HRUSKA. Well, Mr. Velde will address himself to that subject a little later this morning, and we look forward to his explanation and his side of the story.

I will ask you, now: What about the impact of the report of the Commission on Standards and Goals? We have, of course, as one of the principal objectives of this program the idea that law enforcement will always stay with State and local authorities; and in-says that they were prescribing or imposing any standards and herently and basically in America, that is the way we govern this part of our national activity, our country's activities.

Now, the Commission on Standards and Goals, of course, never says that they were prescribing any standards and goals on any State. It was a composite judgment of the Commission members, that was widely representative of certain desirable things; and then it was left for each State and each part of the State to pick from that report

those things that they felt were applicable and workable in their State, and try to repair to those values and put them in practice.

What impact has that Commission's report and functioning had within Rhode Island?

Governor NOEL. Mr. Chairman, in my State—and I can only speak about my State in direct answer to this particular question, because I do not know the circumstances in other States—in my State, it was a very valuable piece of work, because it got those of us in the executive branch of government, myself included, thinking about law enforcement from a goal orientation. In other words, what I got from that work was a sense that it was the State's responsibility to establish law enforcement, criminal justice goals, but that we should indeed be working as the result of a plan that emerged from a process where we established criminal justice goals within our State. And it was very helpful to me.

There is no support in Rhode Island for any rigid criminal justice goals being established at the Federal level, and mandated at the local level. I do not think there are many that would suggest that. Perhaps there are. But I think it is a responsibility that the States should lead, should take, and establish their own goals. And we are trying to do that working with this program, the LEAA program.

Senator HRUSKA. Well, I know a lot of parts of the Commission's report would have worked very well in Nebraska. They probably might not even be welcome in your State, and vice versa. It depends upon a great many factors, does it not?

Governor NOEL. Well, it is a greatly diverse Nation, and criminal justice problems are not the same all across the country. That is why I think that we should avoid, in the reenactment of this legislation, changes that would mandate specific program requirements, because that moves us away from the notion that there are different problems in different regions. The problems of Nebraska are not the problems of a densely populated industrialized Rhode Island.

So, when you start to particularize programs such as this, I think the total nationwide effect of this suffers or becomes depreciated.

Senator HRUSKA. Well, thank you very much for your appearance here, and I want to commend you again for the very fine and balanced statement which you have submitted. It will be a good addition to our hearings.

Governor NOEL. Thank you very much, Mr. Chairman.

Senator HRUSKA. Our next witness is Mr. Amos Reed, administrator of the Corrections Division, Department of Human Resources, from Salem, Oreg. We welcome you here, Mr. Reed. You have come a long way, and we are looking forward to your testimony.

STATEMENT OF AMOS E. REED, PRESIDENT, ASSOCIATION OF STATE CORRECTIONAL ADMINISTRATIONS

Mr. REED. Thank you, Mr. Chairman.

I am appearing here today as president of the National Association of State Correctional Administrators and the invitation to appear before you today indicated that my general topic of address

should be the Law Enforcement Assistance Administration and my specific topic should be the authorization legislation upon which it is based.

Senator HRUSKA. Mr. Reed, you have submitted a statement together with some attachments. That whole statement will be placed in the record. And that will leave you at liberty, if you choose, to skip read if you want or to highlight as you choose.

Proceed in your own fashion.

[The material referred to follows:]

PRESENTATION BY AMOS E. REED, PRESIDENT, ASSOCIATION OF STATE
CORRECTIONAL ADMINISTRATORS

The invitation to appear before you today indicated that my general topic of address should be the Law Enforcement Assistance Administration, and that my specific topic should be the authorization legislation upon which it is based. Prior to my arrival here, I have made a serious attempt to canvass all of the members of the Association of State Correctional Administrators to obtain their input concerning LEAA in general, and concerning their specific interests and concerns regarding the details and impact of Title One of the Omnibus Crime Control and Safe Streets Act of 1968, as amended in 1973 and again in 1974.

The existence and operations of the Law Enforcement Assistance Administration have proven beyond doubt to be extremely helpful to all components of the criminal justice system in responding to the demands of an ever-increasing wave of crime, and in meeting the needs and demands placed upon us by the public as their concern over that wave has mounted. LEAA has been of immense benefit to policing authorities, correctional services, juvenile agencies, courts and to the interactions among them. Its programs and activities have enabled us to make studies of what we have in fact been doing, and to obtain information concerning the results of those activities. LEAA support has made possible far closer communications among the various components. It has fostered development of better understanding, mutually-shared planning, and initial design for cooperative activities which can be of benefit to the efficiency and effectiveness of the programs of all.

Frankly, the LEAA has been a near-godsend to state and local governments, providing supplemental funding during the advent of a virtually continuous crisis situation in times of increasing pressure upon all portions of the criminal justice system. The fact that it was initiated in 1968, and thus was available when the current wave rolled over us, is a tribute to the forward-looking approach of the Congress. LEAA has proven to be a viable and extremely helpful adjunct to the needs of all criminal justice organizations and systems throughout the country. Without it, quite frankly, we could have very little going for us in these troubled times. There is little doubt that many of America's correctional services would have been swamped long ago by the crime wave, had LEAA's backing and help not been available.

The basic conceptualization of a single federal authority, providing assistance both in funding and in technological advice to a single central planning authority in each state, in turn providing services to all state and local components of criminal justice, seems to be working admirably. Reports from many administrators indicate basic satisfaction with and support of the arrangement. The formal position of the National Governors' Conference with regard to Crime Reduction and Public Safety strongly supports continuance of the arrangement; the Association of State Correctional Administrators generally supports the National Governors' Conference in its position. LEAA and its officials have been doing, and are continuing to do a tremendous job in giving help and cooperation to those of us who labor in the corrections field.

As simply one example of the far-reaching implications of LEAA activities: the National Commission on Criminal Justice Standards and Goals brought forward in 1974 the most comprehensive and detailed spread of recommendations for long-range goals in the various fields of criminal justice that have ever been codified. Working from these recommendations, the professional

leadership in the area of corrections has recently accomplished an almost impossible task—the development of complete consensus among the members of the Wardens and Superintendents Association, the Association of State Correctional Administrators, and the membership of the American Correctional Association, in acceptance of the recommended standards and goals with relatively little modification. These standards are now being used as bases from which the comprehensive thinking of the various State Planning Agencies can go forward; they are being considered as basics by the newly-established National Commission for Accreditation in Corrections. Comprehensive planning and establishment of a system of agency accreditation represent two of the most significant landmarks in corrections.

In any consideration of LEAA itself, or of the statutory base upon which it is founded, there is a long list of specific and general considerations which must receive account. One of these is the relative merit of block grants vs. discretionary funding. It is the essential stand of ASCA, and of the National Governors' Conference, that block grants should be continued. We should shy away from any move to have the federal government deal directly with non-state jurisdictions or individual agencies, on programs and plans. Such a move would very quickly prove to be defeating of the very purposes which the Congress, through LEAA, set out to address. The concept of block grants to single State planning agencies has been richly demonstrated to be a successful one. It has helped in assuring development of statewide comprehensive, integrated planning, and in fostering cooperative, broad-span program efforts. Negotiating directly with individual agencies would promptly destroy this teamwork approach. Spending would become a fiscal and program game of catch-as-catch-can; individualized, self-seeking uncoordinated local efforts would supplant areawide, systemwide, planned approaches to issues and concerns.

This is not to say that the current emphasis of the block grant system, as designed and directed by the enabling legislation, is completely oriented toward the current needs of the general community or of the criminal justice systems which serve within it. There is no provision, for instance, for the support or even the encouragement of victim compensation programs—which all persons oriented toward basic concern for humanitarian considerations would surely desire. Specific attention is being given to the needs of policing authorities, and to the problems of corrections, but relatively little attention is given in statute to the needs of the courts despite the fact that they provide the essential connective and interpretive link between and among the other components of the system. Part B addresses the whole area of correctional needs, but does so in a rather fuzzy manner; it should be clarified and sharpened. Provision is made for the development of regional planning agencies in communities of over 250,000 which meet the requirements of being metropolitan areas and/or being of interstate concern.

Yet this is not the only place where the crying need exists. Cities, counties, and local government frequently don't have the planning capacity to do a good job. Some jurisdictions—and they are most frequently those in rural or sparsely populated areas—have no planners at all, and certainly no grantsmen who could help them obtain the funding for planners. Their needs are nonetheless as real, and their problems as urgent as those of the more metropolitan areas. Even when planners exist, under the present system they often find themselves with multiple assignments working simultaneously for justice courts, councils of government, county commissioners, and many other separate and discrete agencies and units. Any consideration of title I changes should make possible relief to these problems.

In these times of critical shortages of tax dollars and critical increases of demand, there is always the temptation to trim appropriations in areas of low public concern. The criminal justice system certainly is not presently a low-concern area; quite the contrary. There is a rising tide of public demand for safety, law and order. Proper address of community needs requires maintenance and even enhancement of current funding levels throughout the criminal justice services. We must find ways to mount increasingly consolidated, ever more broadspan attacks on problems, basing our actions on an increasing flow of accurate and specific information. Such changes require support; support requires money.

I have said that the concept of block grants has been well demonstrated to be successful when the administration is careful and well organized. The present provisions of title I do, however, offset block grants with discretionary funds, on an 85 percent-15 percent balance. Many States, including my own, have found the existence of the discretionary grant option to be of significant help in covering those areas which would otherwise be left vacant. There is a general feeling, however, that the availability of discretion funding should be reduced sharply, perhaps from 15 percent to 5 percent of the total. Significant sums would still be offered—after all, 5 percent of \$780 million is still \$39 million—but the potential for concept abuse would be strongly reduced. The award of discretionary funds is made to the agency or planning group which is “there the firstest with the mostest”—which means that a premium is placed upon submission of cleverly worded applications without the proper time to think things all the way through. Requests become more oriented toward greed than toward adequate planning; awards become pork barrel in nature. I suggest that this tendency can be defeated by making the availability more difficult to tap, and placing the liberated funds in augmentation of the block funding of the States.

If Congress wants to prioritize the use of dollars, it might be wise to establish a base of operational level which existed prior to establishment of LEAA—taking 1967, for example, as the standard—and to then establish a sliding scale of program excellence and funding in relation to population and to client numbers, with a differential index based on inflationary increase in costs.

This pressure of time, so obviously evident in the case of discretionary fund distribution, is more the rule than the exception in virtually all of our dealings with LEAA, as it presently exists. The public concern over crime is very real and very immediate, and demands rapid and cogent attention. We are being foolish if we permit ourselves to be stampeded into unwarranted or incompletely planned action. Yet, this is what is happening in many jurisdictions. The time frames given us are too tight for proper attention and address to the issues involved. In my own State, and in the jurisdictions of my fellow ASCA members, the deadlines we must face require almost superhuman, sacrificial effort on the part of our staff. Most of us are all too familiar with repeated all-night sessions necessitated by demands for response “no later than tomorrow.” When agreements are reached, we find ourselves saddled with plans which do not permit reasonably adequate time for “tuneup” prior to program implementation.

I am certain that a significant portion of the money set aside for the participant cities in the IMPACT program of urban-street-crime reduction has been wasted because of this framing. Time is needed to assure proper interties between governmental agencies involved, and between government and private agencies. Time must be expended in assuring that business, labor, education, and the general public are fully attuned to and drawn into cooperation with the programs which will be going forward. Time must be allotted for the identification and acquisition of sites and facilities, equipment and supplies; personnel must be properly recruited and trained; clients must be accurately identified and selected. Tight framing precludes rational, orderly, and integrated movement.

It is true, of course, that LEAA is not alone in setting close-tolerance limits on actions and activities. My invitation to appear before this committee was one of equally close timing. I received a telephoned invitation on October 21; the written verification arrived on October 27. Meanwhile, on October 23, I succeeded in having an inquiry to all the members of the Association of State Correctional Administrators mailed out. These inquiries were received by the administrators on October 28, and I received their first returns only last Friday—the 31st. My own schedule was such that I was required to be absent from Oregon during much of last week, so I could not receive telephoned responses. Fortunately, my schedule did place me in personal contact with our Executive Committee and I was able to elicit their thinking. But I am sure that as I sit here before you, the responses of many others are flooding into my office in Oregon—where they will do me—and you—little good. There were undoubtedly compelling reasons for the timing of the request for testimony. But the time frames have precluded the comprehensive preparation which you justifiably deserve and require.

Throughout the history of government, there has been a general tendency for rules and laws to proliferate, and for verblage to expand beyond all reason. I would not be surprised to learn that the timing of LEAA and other governmental requests may be based, in part, upon the fact that it is exceedingly difficult for those involved to extract the essential meaning from their instructions; action in arranging what is needed is delayed until that task is completed. As far back as 534 A.D., the Byzantine Emperor Justinian found it necessary to call together a 10-man commission of experts to winnow the existent laws, extract their essential principles, eliminate their duplications, contradictions and irrelevancies, update and re-publish them. When the job was done, Justinian claimed that the single volume, *The Digest*, had reduced the original 3,000,000 lines of the law which he had inherited down to only 150,000 lines. Perhaps a similar review and recodification of LEAA authorization law and implementation rules could and should be accomplished soon.

I have strongly indicated that the existence of LEAA has proven to be the salvation of today's criminal justice agencies. We do not believe many of our services could have survived the past few years without the advice, assistance and support made available through its offices. Yet we have often found ourselves on the point of complete frustration over the burdensome, voluminous, ever-changing, troublesome and overly-detailed rules and regulations which come pouring forth, seemingly deliberately, to plague our attempts to get on with the job. The quagmire of contradictions and discrepant decisions requires a battery of lawyers to unravel and interpret; the requirements of paperwork detail preclude use of staff time for the obviously crucial tasks of longer-range planning and attention to the sweep of the effort which we are attempting to make. The number of surveys, research moves and evaluation requirements, while commendable in concept, are killing in application. They take up an inordinate amount of the precious short time available to us. The individual components of criminal justice are not alone in their frustration. Our State Planning Agencies, working closely with us in development and implementation of planning, find themselves crossed up and confused by unbelievable and seemingly insurmountable shifts in interpretations of the Act by regional officials. One almost begins to wonder if the "Peter Principle" isn't being applied: bureaucratic regulations and red tape being added in service of the needs of bureaucratic staff, rather than in service of the needs the bureaucracy set out to address.

Both before my own legislature and in more general contexts, I have repeatedly warned against the incursion of legislatures and top-officialdom into the intricate details of program and operational procedure. Decision-making should always be at the lowest echelon consistent with well-founded program and fiscal controls. In the present context, I suggest that the State Planning Agencies should be granted the freedom to accommodate to the unique situations and needs within their jurisdictions, relatively unhampered by the intricacies of higher-level thinking which is not completely aware of local problems and issues. This does not mean that I advocate license; far from it. The operations and activities of the State Planning Agencies should be vested with responsibility for results, and the local services should be held carefully accountable for their decisions. I advocate good stewardship, and submit that this can best be achieved by delivering both authority and responsibility to the persons and agencies most familiar with needs.

I suggest that the law itself should be simplified to reflect this concept. It should provide clearly-stated guidelines of what is expected, and incorporate accountability of the State Planning Agencies for accomplishment in direct proportion to resources expended. It should not make possible a morass of regional and national decision-making which depends upon the view of the moment and interpretation by whim. When men of good will work together, the most simply-stated policies can be brought to proper and well-defined fruition; when those involved are not men of integrity, no degree of specification and rulemaking will assure success. With a simply-worded guideline and the freedom to move within a specified area of accountability, I believe you will find that national and regional offices can safely and profitably defer to the decision-making capabilities of the State Planning Agencies, and to the detailing and implementation capacity of the state and local criminal justice chiefs.

Codification of detail has the additional disadvantage of requiring statutory address to momentary changes in philosophy or sentiment. At the time Title I was founded, the general sentiment of the public was for support of community-based services to offenders, and away from institutional programming. Today, the reverse is true. There is a surge of public demand for jail and prison as the preferred mode of treatment for offenders; this surge is one of the main factors contributing to the current overloading of correctional facilities throughout the nation, which has in recent months been maintained at crisis levels. Other factors include unemployment, age group at risk, alcoholism and drug addiction.

The present wording of Title I does give attention to the needs of corrections, and to the specific needs of the correctional services for regionalized jail and prison facilities. This attention, however, is less than that given to moves for community services. Today, LEAA top officialdom—in response to the wording of existent law—continues to “soft-pedal” use of funds to support construction, despite the obvious fact that construction is rapidly becoming a national “must.” There is sharp need for jailing services on local and regional levels; there is crucial need for longer-term housing of those whom the general community will no longer accept. Congress needs to listen carefully to the public. Community-based options are properly and reasonably a part of the armamentarium of the well-balanced criminal justice system, and rightly so. But to single them out for specific attention and fostering is a serious mistake. Without interties and the mutual support of regional, state and local “mother-ships,” the small vessels of local community services cannot long survive the waves of demand we are experiencing.

Similarly, the present wording of the law designates the type and amount of “match” which must be produced by the requesting agencies in any LEAA-funded program. Fuzziness of wording makes it difficult for LEAA staff to be sure of what is intended, and the result is a shifting of requirements with each change in personnel. Perhaps it would be more appropriate for the decisions and to the degree and kind of “match” to be left to the local authorities keeping in mind that careful auditing of results can continue to be carried forward.

Presently, hard cash match by a grantee is apparently required as an indication of commitment to a program or the probability of General Fund continuation when Federal Funds are withdrawn. Many small, needy and deserving agencies, however, find extreme difficulty in meeting the “hard cash” requirements. Large agencies with fiscal sophistication engage in time consuming budgetary maneuvers to match with Program Improvements which are only incidentally related to project goals. This also requires much time consuming extra accounting and record keeping to fit General Fund appropriations and expenditures into project budgets.

I propose that you dispense with this often fictitious matching accommodation and as an offset to that expense, reduce or eliminate the indirect costs award to grantees.

My agency has a negotiated Indirect Cost ratio of 15% for Field Service Projects and 27% for Institution Projects. We would be most happy to relinquish this monetary advantage over a 10% hard cash match, if we were absolved from some of the bookkeeper picking of nits which diverts staff time from delivery of services to clients.

This action would: Reduce accounting and auditing requirements; would simplify monetary procedures, and allow grant staff to devote full time to accomplishment of project objectives. Additionally, it would reduce nationwide administrative costs by eliminating the make work positions of hundreds of bookkeepers, accountants and auditors.

In summary: The entire criminal justice community has become more closely knit, thereby significantly improving the delivery of service to clients and public alike as a result of assistance provided by LEAA. There must be extreme caution exercised in considering any move away from the basic block grant concept.

We must move toward elimination of bureaucratic overburdens of policy and procedure. Increased attention is deserved by the judicial branch of government.

Heavy support should continue to flow toward master planning, and there should be full recognition of state responsibility for leadership and control.

Therefore, within broadly established guidelines, there must be movement toward joint responsibility for good stewardship that addresses the needs for protection of the community and help for the client.

BACKGROUND RESUME OF AMOS E. REED, SALEM, OREG.

Married; wife's name, Dorothy; six children.

Occupation.—Administrator, Oregon Corrections Division (7/1/71); Administrator, Oregon Interstate Parole Compact; Ex-Officio Member, Oregon State Board of Parole.

Educational Background.—M.S. (Education-Social Science); A.B. (Biology); Extensive additional coursework.

Membership in Professional Organizations.—

President—National Association of State Correctional Administrators.

Faculty Member—National College of the State Judiciary, Reno, Nevada.

Board Member—American Corrections Association (Consultant-Organization and Administration of Correctional Services of Commission on Accreditation For Corrections).

Member—Special Advisory Staff—Oregon Law Enforcement Council.

Vice President—Oregon College of Education Advisory Committee on Administration of Justice.

Member—Advisory Council Administration of Justice Program Portland State University.

Member—National Association of Training Schools & Juvenile Agencies.

Awards and Honors.—

Human Rights Award—Commission on Human Rights and Responsibilities, Portland, Oregon.

Wagner Memorial Science Award—McKendree College, Illinois.

Silver Beaver Award—Cascade Area Council Boy Scouts of America.

Outstanding Service Plaque—Portland Youth For Christ.

(Numerous Certificates of Recognition and Appreciation.)

Representative Professional or Civic Positions or Activities.—

Past President—National Assoc. of Training Schools & Juvenile Agencies.

Past President—Marion-Polk Counties United Good Neighbors.

Vice President—Oregon United Appeal.

Past President—Rotary Club, Woodburn, Oregon.

Past Vice President—Cascade Area Council, Boy Scouts of America.

Member—Oregon Law Enforcement Council.

Member—Oregon Corrections Education Commission.

Member—Executive Board of American Correctional Association.

Consultant—Numerous State and Local Corrections Systems.

(Authored and co-authored numerous professional papers.)

Mr. REED. Thank you, sir.

Prior to my arrival here, I have made a serious attempt to canvass all of the administrators throughout the Nation. We also had an executive committee meeting in New Orleans last week and I had the input from that body.

The existence and operations of the Law Enforcement Assistance Administration have proven beyond doubt to be extremely helpful to all components of the criminal justice system in responding to the demands of an ever-increasing wave of crime, and in meeting the needs and demands placed upon us by the public as their concern over that wave has mounted.

LEAA has been of immense benefit to policing authorities, correctional services, juvenile agencies, courts and to the interactions among them. Its programs and activities have enabled us to make studies of what we have in fact been doing, and to obtain information concerning the results of those activities.

LEAA support has made possible far closer communications among the various components. It has fostered development and better understanding, mutually shared planning, and initial design for cooperative activities which can be of benefit to the efficiency and effectiveness of the programs of all.

Frankly, Mr. Chairman, the LEAA has been a near-godsend to State and local governments, providing supplemental funding during the advent of a virtually continuous crisis situation in times of increasing pressure on all portions of the criminal justice system.

The fact it was initiated in 1968, and thus was available when the current wave rolled over us, is a tribute to the forward-looking approach of the Congress. LEAA has proven to be a viable and extremely helpful adjunct to the needs of all criminal justice organizations and systems throughout the country. Without it, quite frankly, we could have very little going for us in these troubled times. There is little doubt that many of America's correctional services would have been swamped long ago by the crime wave had LEAA's backing and help not been available.

The basic conceptualization of a single Federal authority, providing assistance both in funding and in technological advice to a single central planning authority in each State, in turn providing services to all State and local components of criminal justice, seems to be working admirably. Reports from many State administrators indicate basic satisfaction with and support of the arrangement.

The formal position of the National Governors' Conference with regard to crime reduction and public safety strongly supports continuance of the arrangement. The Association of State Correctional Administrators generally supports the National Governors' Conference in its position. LEAA and its officials have been doing, and are continuing to do a tremendous job in giving help and cooperation to those of us who labor in the corrections field.

As simply one example of the far-reaching implications of LEAA activities: the National Commission on Criminal Justice Standards and Goals brought forward in 1974 the most comprehensive and detailed spread of recommendations for long-range goals in the various fields of criminal justice that have ever been codified. Working from these recommendations, the professional leadership in the area of corrections has recently accomplished an almost impossible task—the development of complete consensus among the members of the Wardens and Superintendents Association, the Association of State Correctional Administrators, and the membership of the American Correctional Association, in acceptance of the recommended standards and goals with relatively little modification.

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The concept of block grants to single state planning agencies has been richly demonstrated to be a successful one. It has helped in assuring development of statewide comprehensive, integrated planning, and in fostering cooperative, broad-span program efforts.

Mr. Chairman, here is an example of this in Oregon's comprehensive plan that we have developed at great length which covers all of the units of government in Oregon. This is this document here. And in addition to that we have established in Oregon, as an example, the criminal justice system's goals and standards for Oregon in its fourth draft.

This could not have occurred without the help from LEAA.

Senator HRUSKA. May we have copies of those for our file?

Mr. REED. Yes, you may.

Senator HRUSKA. That is fine. Thank you.

Mr. REED. Negotiating directly with individual agencies would promptly destroy this teamwork approach. Spending would become a fiscal and program game of catch-as-catch-can; individualized, self-seeking uncoordinated local efforts would supplant areawide, systemwide, planned approaches to issues and concerns.

This is not to say that the current emphasis of the block grant system, as designed and directed by the enabling legislation, is completely oriented toward the current needs of the general community or of the criminal justice systems which serve within it. There is no provision, for instance, for the support or even the encouragement of victim compensation programs, which all persons oriented toward basic concern for humanitarian considerations would surely desire.

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Today, the reverse is true. There is a surge of public demand for jail and prison as the preferred mode of treatment for offenders; this surge is one of the main factors contributing to the current overloading of correctional facilities throughout the Nation, which have in recent months been maintained at crisis levels. Other factors include unemployment, age group at risk, alcoholism and drug addiction.

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In summary, the entire criminal justice community has become more closely knit, thereby significantly improving the delivery of service to clients and public alike as a result of assistance provided by LEAA. There must be extreme caution exercised in considering any move away from the basic bloc grant concept.

We must move toward elimination of bureaucratic overburdens of policy and procedure. Increased attention is deserved by the judicial branch of government.

Heavy support should continue to flow toward master planning, and there should be full recognition of State responsibility for leadership and control. Therefore, within broadly established guidelines, there must be movement toward joint responsibility for good stewardship that addresses the needs for protection of the community and help for the client.

Thank you, Mr. Chairman.

Senator HRUSKA. Thank you for your fine statement. You start out with the gentle hand of one who has witnessed the many benefits of LEAA, and then you proceed to point out some areas that could be improved, and we like that.

Mr. REED. Thank you, sir.

Senator HRUSKA. We look for suggestions of that kind, and I am especially impressed with the constructiveness of your statement and of your criticisms.

A little later this morning, Mr. Velde, who is here, will address himself to the "burdensome, voluminous, ever-changing, troublesome and overly detailed rules and regulations which come pouring forth seemingly deliberately." I invite your attention and presence here when he testifies, because I have read his testimony and analyzed it a little bit, and he will have some remarks to address to that. And perhaps you can get a copy of the statement so that you can follow it.

And I would request, Mr. Reed, that you take that with you, together with what you have here, analyze it a little bit, and then comment on it in writing, either on behalf of yourself as an individual or as the president of your association; because you know we have had so much criticism here since 1968. There are some people who congenitally like to criticize, and we have had our share of them here.

But they criticize because they say LEAA is not doing enough to see that these dollars are being wisely and properly spent by the State and local department. Therefore, we want LEAA to follow up and let us know. And, as a matter of fact, that demand got so great that in 1973, just 2 years ago, there was a mandate on the LEAA to give special attention to evaluation reports. So when reference is made in your statement to evaluation reports and requirements, you had better direct those criticisms to this com-

mittee and to the Congress, because we not only discussed it, we required those reports.

And there must be a balance someplace between the bloc grant system of just distributing that money and on the other hand, finding out where it goes, how it is applied, and what good it is doing, and what harm it might be doing.

So we do have a problem, and I wish you would take that analysis which Mr. Velde will shortly present and give it your best thought. And if you would favor us with a little commentary on it, it would be very helpful. We would thank you, sir.

When I read the last statement, the last sentence in your report: "Therefore, within broadly established guidelines, there must be a movement towards a joint responsibility for stewardship"—how are we to know that there is joint responsibility for good stewardship unless we do get reports from people who evaluate the program as they work?

We do have, for example, LEAA guideline requirements, and you will be furnished with a tabular arrangement of the total document of the guidelines, on part B, for example. The number of actual guideline pages is 1,200. Not all of them are guidelines. Many of them are forms. Many of them refer to the various laws that LEAA, just like you, must comply with; for example, the clean air law, the National Environmental Policy Act, nondiscrimination on account of race, color, or creed, and a host of other things. And that is not the fault of LEAA; again, that is the fault of the Congress that says you shall be governed by these.

You refer to something here which is interesting in the light of other testimony we have had, and that has to do with the new tendency, the surge of public demand for jail and prison as the preferred mode of treatment for offenders.

When did that assert itself? What is the basis for that conclusion?

Mr. REED. Mr. Chairman, if you were in my position, traveling around the country and going to the prisons and talking with the administrators, you would be confronted with an attitude of almost total frustration.

The State of Florida, for example, has some 3,600 over capacity. They referred 1,000 to the parole board for consideration for parole, with very few going to parole.

The State of Alabama, under Federal Court order, can take no more prisoners into the prisons that are grossly overloaded.

The State of Louisiana is under Federal Court order to cease and desist in relation to the overcrowding and certain other internal management issues.

In fact, the administrator of the State of Louisiana has even sought the possibility of a prison ship to anchor off the shore to give additional space.

In our little State of Oregon, in our main prison 2 years ago we had internally a population of 840; today we have 1,357 inside our prison.

The State of Ohio's population in its institutions went up some 25 percent in a year.

Now, this tide started turning about 18 months to 2 years ago. Now, it is related to several factors. One is the population at risk.

I mean here that those that come to us come out of the span of 16 to 30, essentially, this younger group. In our State, this particular group of population has been increasing about three times as fast as the general population. And as we study the census charts and project this, we find in Oregon, as the American Corrections Association has found nationally, that it will be somewhere around 1985 before that changes.

When one adds to that the problems of unemployment and inflation, alcoholism, drug addiction, the return of the veterans, and so on, we have had a rush on our prisons. The judges tend to give longer sentences. There is a movement to the right in the general public against community based programs, and any administrator can tell you it is extremely difficult, very extremely difficult to get zoning for community based centers and for other community based programs. There is an upsurge for capital punishment.

All of these, in our judgment, are indicators of the hard line attitude that is being taken by the general public.

Senator HRUSKA. And the fact is that a great many of our prisons and jails and corrections centers are very antique and obsolete, some of them 100 or more years old, and not at all adapted to present uses.

Mr. REED. How true it is. And it bothers us, those of us who have spent our lives in this business, that those people who are concerned about human beings seem to take no concern about what you have just stated. Out of sight, out of mind, so to speak.

These are very real problems to the prisoners, and they are very real problems to the staff who have to supervise those prisoners. And there are those around the country now that have three and four people to a cell.

In our own State some 8 months ago we had to start doubling for the first time since 1968.

No prisoner should have to be in a cell with another man, and I certainly should not have to elaborate on the reasons for that. This should be evident to any thinking person. Every prisoner should have his own pad, his own cell, so to speak; and yet this is not generally the case throughout the Nation.

Now, Florida has even gone to tents, Mr. Chairman—and perhaps you are aware of this—as dormitories for prisoners because they are so overcrowded; and several times it has closed its intake.

Senator HRUSKA. Has there been an inventory made of the requirements for modernizing our State and local jails and penitentiaries that has come to your attention; an inventory of the inadequacies and also an estimate of the cost that it would take to modernize those facilities?

Mr. REED. There has not been, really, excepting for some studies made by the Clearinghouse on Prison Construction. There has really not been the kind of feasibility study which I think probably you would have in mind.

In our State of Oregon we did for three years assign a feasibility study by special staff in which we reviewed all of the jails, city and county and otherwise, within our State, and from that we spread the real picture—the buildings, the staff, the laws, the traffic of the clients and so on—and this was in cooperation, which grew

out of LEAA—cooperation with the sheriffs, the chiefs of police, with the League of Oregon Cities, with the Law Enforcement Council, the children's division, the corrections division and others. It was a real good healthy study.

And from this, then, we developed a standards concept which was enacted into law and is now on the statutes of the State of Oregon.

A similar national feasibility study in relation to all of its prisons would be most commendable. It has been done, more or less, catch as catch can. There are many good recommendations concerning the prisons.

The comment that you made about the age and the condition of the prisons is well known. We do not need research to determine that; we know that. It is well known.

Also, some determination, for example, on the size of the prisons, which now generally we are talking in terms of 400 to 500. Never again should we build 1,000, 2,000, 3,000, 4,000 man or woman prisons.

There are also a number of good plans that are being spread, no one of which is total, as you indicated to the previous speaker here. You have to make adjustments for each state and each locality. But this is something that would merit more attention.

Senator HRUSKA. What was the cost of that Oregon plan that you have developed in your state?

Mr. REED. I cannot give you a precise figure—and it is not in just the thinking that you have spread it there. As I instructed my staff—and the feasibility study was under my direction—I said it is our responsibility to spread the facts. We will not tell the local commissioners what they must do. We will dialogue with them. We will not go in like Big Daddy and say, here, you must do this or we will not support you, and so on.

So we have taken the attitude, Mr. Chairman, of spreading the information and relying upon the good sense and the local discretion and availability of funding of the local commissioners and legislators and others to make that decision. So we have not spread it in neat little compartmentalized dollars.

Senator HRUSKA. Of course, that is about all the national government can do towards the states and to the communities.

Mr. REED. That is correct.

Senator HRUSKA. There has been—at the initial development of the LEAA there was consideration given for a construction program for jails and prisons for States and localities. It became evident without too much computation that the load, which ran into the billions, which would be required for that service made it totally impracticable for the LEAA or the national government to get interested in that program except by way of guidance and counseling and prodding of prisons and their setup and so forth, much as you have done in your Oregon plan.

And, therefore, it is with some concern that I read your statement at page 12 that: "There is a sharp need for jailing services on local and regional levels. There is a crucial need for longer term housing of those whom the general community will no longer accept. Congress needs to listen carefully to the public."

But Congress also hears another voice from the public, and most of them say cut our taxes, cut our expenditures, let us get sensible about this thing so that we will have a little to live on and save a little for our children to go to school and retirement and so on. So Congress is listening, but they are listening to different parts, perhaps, of the people's cry.

Mr. REED. We are well familiar with this, Mr. Chairman.

I think you will agree with me that the criminal justice system and especially the prisons and jails, constitute a stronghold for our society. Now, there are those who would breach that stronghold. There are those who for their own reasons would eliminate prisons, would denigrate the activities that go on in jails and prisons. I propose to you, Mr. Chairman, that if this stronghold is breached, we will no longer have a society. And whatever the cost is, within reason, we must some way or other provide the reasonable resources for sustaining that stronghold in conformity with our constitutional and our good American expectations.

Senator HRUSKA. Well, it is associations like your which could do much to stir public thought and also, hopefully, some action along these lines that you have described so well.

Mr. REED. We are trying, sir.

Senator HRUSKA. So give the greetings of the subcommittee to your associates in that association. Tell them to be of good cheer. We are going to do the best we can.

Mr. REED. Thank you, sir.

Senator HRUSKA. And thanks for your help.

Our final witness for the day is Richard W. Velde who is Administrator of the Law Enforcement Assistance Administration.

Mr. Velde, some time ago you appeared here and gave us the opening scenario of these hearings. Since then we have had many witnesses and many points of view expressed in this forum. I know you have followed those hearings and the testimony very carefully and methodically, and the size and the scope of your 26-page statement indicates as much.

I know it would be helpful—the statement is long, and yet, in having read it last night and early this morning I suggest it would be a good reference work to those who have any specific ideas or criticisms to voice; because for every action there is a reaction, and we know that. We had some in the last 2 minutes.

We have had a subject that is dear to your heart—namely, the idea that there are so many guidelines that they are oppressive and frustrating and burdensome, and they never cease to come. I know you will in due time address yourself to that.

We welcome you here once again, and we will print in the record this statement that you have submitted in its entirety.

You may now proceed in your own fashion, to highlight it or skip-read it, as you choose.

[The material referred to follows:]

ADDITIONAL STATEMENT OF RICHARD W. VELDE, ADMINISTRATOR, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, CONCERNING LEGISLATION WHICH WOULD AMEND THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

Mr. Chairman, I appreciate your invitation to again appear before the Subcommittee on Criminal Laws and Procedures in my capacity as Adminis-

trafor of the Law Enforcement Assistance Administration, to discuss legislation which would amend the Omnibus Crime Control and Safe Streets Act of 1968.

I am gratified that most of the other witnesses appearing before the Subcommittee have been generally supportive of the LEAA program and recommended its re-authorization. Suggestions for change in the program have been mainly of a constructive nature, aimed at increasing the effectiveness of the Agency's operations. In some instances, criticism has arisen because of the position of the witness, either as an official serving in a particular capacity in the governmental structure, or as a representative of a component of the criminal justice system.

It is encouraging that these witnesses wish to see more LEAA resources directed to their specialized areas of interest and it is important that the Subcommittee receive this perspective. However, it is just as important to note the fact that system-wide considerations are an important thrust of the LEAA program. Without the coordinated and comprehensive effort which we continuously encourage, there is little hope that the LEAA program can have a significant impact on crime and the law enforcement and criminal justice problems of our Nation.

Before responding to any questions which you may wish to pose, I would like to give LEAA's perspective and address certain of the issues which have been brought to the attention of the Subcommittee in the course of these hearings.

The first issue I would like to address, Mr. Chairman, is that of evaluation. It has been suggested that provision has not been made by LEAA to satisfactorily evaluate the success of projects which are funded and that there is no measure of the effectiveness of these projects in combating crime.

I must point out that the field of crime control is a more complex one. As the Attorney General indicated in his earlier testimony before this Subcommittee, we are in a pioneering era. When LEAA was established in 1968, very little was known about the causes of crime and the factors which impacted upon the crime problem. Today we know much more. However, it is a situation where, as our actual knowledge grows, we realize how much there is to know. The interrelationships of social and economic factors are enormously complicated. LEAA, because of the relatively limited amount of assistance it provides to state and local governments for law enforcement and criminal justice programs, cannot itself be expected to immediately cause a reduction in the growth of crime. Yet, I must disagree with those who say that significant progress is not being made in the area of evaluation.

LEAA has been concerned with evaluation since its inception. This concern was given special impetus when the Congress, in enacting the Crime Control Act of 1973, placed a mandate on LEAA, through the National Institute of Law Enforcement and Criminal Justice, to evaluate its programs. In response to this mandate, LEAA has begun implementation of far-reaching evaluation programs encompassing all program areas. The record shows that LEAA is as intensively involved in program evaluation as is any other agency of government.

Following passage of the 1973 Act, LEAA established an Evaluation Policy Task Force, whose task it was to develop recommendations for evaluation policy, programs, and responsibilities within LEAA and in the state planning agencies. The Task Force submitted a final report on March 1, 1974, in which three general evaluation goals for LEAA were delineated. These goals were:

The development of information on the effectiveness of criminal justice programs and practices;

The employment by LEAA managers of management practices which use evaluative information in the formulation and direction of their activities; and,

The encouragement of all agencies in the criminal justice system to develop and utilize such evaluation capabilities.

Steps were immediately taken to implement the recommendations of the Task Force. LEAA began to plan for a full scale evaluation of the six year impact and effectiveness of the entire LEAA program. An evaluation of this nature was decided upon in order that the successes of the LEAA program could be reviewed fully and built upon, and so that we could learn from those activities which have proved less successful. The conclusions of the review, which is being conducted mainly by third-party organizations such as the

Advisory Committee on Intergovernmental Relations, the National Academy of Science, and the Brookings Institution, will be used by LEAA management to examine the LEAA program and to make such changes as appear to be necessary to make the program more effective and efficient.

The evaluation policy of LEAA will continue to evolve as results come in. Lessons are being learned monthly about how to design and conduct evaluations. In fact, guidelines on evaluation have been revised twice in the past 18 months.

The LEAA Guideline Manuals for the block and discretionary grant programs clearly define the high priority which LEAA has placed upon performance measurement and evaluation in these programs. The monitoring and evaluation requirements set forth are designed to assure that information is systematically generated about the level of, and the reasons for, the success or failure which is achieved by LEAA-funded projects and programs. More specifically, the purpose of these requirements is to provide for a process which permits determination of the extent to which projects are contributing to general objectives which LEAA or the states have set, and to determine the relative effectiveness and cost of different approaches to the same objectives. The requirements which are articulated in these guidelines are specifically designed to aid in achievement of three broad purposes:

The increased utilization of performance information at each level of law enforcement assistance programs in planning and decision making in order to assist program managers achieve established goals;

The acquisition and dissemination of information on the cost and effectiveness of various approaches to solving crime and criminal justice system problems; and,

The gradual development within state and local criminal justice system units of an increasingly sophisticated evaluation capability as part of their management systems.

In their annual action programs each year, the state planning agencies are required to give detailed progress reports for each program which is funded in the last complete funding cycle. In addition, the states are required to take account of the results of the national evaluation program and its own evaluations in planning future activities, and to forward copies of all final reports of intensive evaluations to the appropriate LEAA regional office and to the National Institute.

To assure the maximum benefit from its evaluation program, LEAA has promoted the use of criminal justice evaluation information on a nationwide scale. Within the National Criminal Justice Reference Service, LEAA has established a clearinghouse of evaluation reports. Program planners and project personnel can now easily obtain examples of evaluation research for numerous types of projects. A more systematic collection of evaluation information has been compiled for major topic areas such as Youth Service Bureaus under the National Institute's National Evaluation Program. The first phase of the National Evaluation Program will include an assessment of the current knowledge about how well particular programs work in various jurisdictions around the country and development of a design for more rigorous study of these programs' operations.

The National Institute has identified several innovative criminal justice programs which are exemplary and has encouraged their adoption by local agencies. This encouragement has taken the form of direct grant support to selected jurisdictions and the complete documentation of program operations and results for dissemination to agencies through the country.

The Institute has also supported development of detailed operational guidelines in selected program areas. The guidelines, called Prescriptive Packages, are based on findings of research, as well as operational experience. The function of this program is to identify areas of major concern to criminal justice practitioners and to publish comprehensive information that will assist in the development and implementation of improved operations in each of these areas.

In June 1975, LEAA published a Compendium of Selected Criminal Justice Projects as part of the effort to identify, evaluate, verify, and transfer promising projects. The Compendium, copies of which have been previously provided to the Subcommittee, describes more than 650 projects involving \$200 million of LEAA funds and summarizes their reported impact on crime and on the criminal justice system. One third of the projects are considered especially innovative and have high levels of outcome evaluation. LEAA will

build on this experience to develop standardized performance reporting and to refine evaluation requirements of projects which are funded.

A complement to LEAA's technology transfer efforts are programs which provide training and technical assistance in the evaluation area. A pilot effort in this regard is the National Institute's Model Evaluation Program. This experimental program is designed to encourage selected jurisdictions to create and implement their own, locally developed evaluation strategies. An independent contractor will document this implementation and assess the ability of state planning agencies and regional planning units to generate useful evaluation information. Workshops are being developed to train operational agency personnel in the techniques of evaluating specific programs.

Technical assistance in evaluation is also being offered through LEAA's ten regional offices in two major ways. A planner-evaluator in each regional office provides assistance on request to planning agencies. Through the Urban Institute, a contractor with extensive experience in evaluation of governmental social programs, the regional offices also are able to provide technical assistance on an in-depth basis in specific areas.

In November, 1974, the National Institute's Office of Evaluation sponsored a conference in Atlanta which was aimed at providing assistance to state and local attendees on such questions as how to organize for evaluation, how to select evaluators, how to manage evaluations, and how to utilize evaluation results. Another conference is being planned for the spring of 1976, at which time the results of evaluations of law enforcement and criminal justice programs and projects will be presented.

Two kinds of evaluation training are now under development. One is a program to train corrections program evaluators, whose purpose it will be to measure the effectiveness of corrections projects, a high priority of the Congress. Also being developed is a one-week course designed to teach monitoring and evaluation skills to state and local personnel. This course should be completed and ready for trainees early in 1976.

It can be seen from this brief recitation of LEAA's activities in the area of evaluation that we are moving forward and that significant accomplishments can be expected. For the full information of the Subcommittee, I have included as an Appendix to my statement, Section F.3 of LEAA's response to the questions submitted to us by Senator Hruska in anticipation of these hearings. This section discusses in much greater detail LEAA evaluation efforts and objectives. I would also like to submit at this time a copy of the Report of the LEAA Evaluation Policy Task Force as well as copies of evaluation and monitoring provisions from the block grant and discretionary grant guideline manuals.

The next issue which I would like to discuss, Mr. Chairman, is the question of a possible two year re-authorization for LEAA, as opposed to the five year renewal proposed by the Administration. It has been suggested that a re-authorization limited to only two years would permit LEAA to give its programs a "hard evaluation," then come back and seek renewed authority to fund efforts of proven success.

I would respectfully submit that not only would this proposal have the effect of changing the nature of the LEAA program to the type of short-term and limited efforts which have been criticized by the Congress and others on several occasions previously, but would also have other adverse effects on the objectives of the Safe Streets Act.

It should be emphasized that the Administration's proposal for renewing LEAA's authorization was submitted in compliance with Public Law 93-344, the Congressional Budget and Impoundment Control Act of 1974. That legislation has as one of its primary objectives the development of a long-range planning capability by the Federal Government, with program expectations stated for five years. Extension of the LEAA program for five years would be consistent with this Congressional objective and would assure stability in this aspect of federal assistance.

One of the key features of the current LEAA program is the comprehensive planning process through which each state reviews thoroughly its law enforcement and criminal justice programs, and sets long-range needs and priorities for resource allocation. This planning, to be effective, must necessarily have long-range implications. A two year authorization would be disruptive of this planning process and allow states to give consideration only to short-term needs.

The possibility of a two year program and the uncertainty as to future assistance would have further adverse effects on state and local efforts.

The nature of the projects supported could change significantly in form, from innovative efforts expected to have permanent beneficial effects, to projects which merely continue the status quo and support normal operational expenses.

Jurisdictions would be hesitant to make a commitment to many significant undertakings because of the possibility of abrupt loss of support.

Short-term programs would also encourage the purchase of equipment by localities since a tangible benefit lasting for some time would be guaranteed. Equipment purchases would also be attractive since they require no follow-up planning or evaluation.

There could additionally be a chilling effect on the raising of matching funds by localities. Local officials may not wish to make a substantial investment in a program which would possibly remain in existence for a brief period, or which might be drastically changed in nature.

One particularly striking example of the negative results which might occur because of a limited re-authorization is in the area of LEAA's corrections effort. The objective of our corrections program is to develop and utilize hypotheses concerning techniques, methods, and programs for more effective correctional systems and improved capabilities of corrections, with special attention to offender rehabilitation and diversion of drug abuse offenders. Developing and demonstrating innovative, system-oriented programs and monitoring and evaluating the outcome of such efforts requires substantial time, effort, and funding commitments. Two years is an unrealistic period to accomplish such objectives.

Numerous states are now developing correctional master plans with LEAA encouragement and support. It has been demonstrated that the planning, development, and implementation of the process exceeds two years. We cannot expect that states, particularly those which are only beginning the process, would commit resources to these major efforts without assured LEAA technical and financial assistance.

Other major corrections programs efforts, such as the Comprehensive Offender Program Effort (COPE), which is now in the initial funding stages, could not have been developed and come to fruition if such a two year limitation were imposed when COPE was first conceived as an inter-agency federal effort. Furthermore, participating states would not consider a major allocation of resources to develop COPE plans if there were no authority to continue the LEAA program beyond two years.

Another area in which positive results could be stifled because of uncertainty in the duration of the program is the LEAA manpower development effort. Because of the Law Enforcement Education Program, the number of universities and colleges offering criminal justice degrees has quadrupled since 1969. The program has grown from 485 institutions to over 1,000. These institutions and others participating in various aspects of the LEAA program, have made a commitment to develop curricula which are aimed at current law enforcement and criminal justice needs. Without the assurance of continued support, these curriculum development efforts could be severely limited.

A final example of the need for an extended period of authorization is the LEAA evaluation effort which was discussed earlier. Meaningful evaluation of complex criminal justice programs cannot be completed within two or three years. Because of the many factors which impact on crime, it is often difficult to identify those projects which reduce crime without long-term review and assessment. For example, projects relating to recidivism, which is one of the most challenging aspects of criminal justice improvement, require several years to design, implement, and evaluate. Moreover, nongovernmental organizations engaged in criminal research—at universities and in private research firms—must be assured of the long-term potential for support of studies into complex crime-related issues before they can invest their own resources in these areas.

Mr. Chairman, the short-term re-authorization of the LEAA program for the purpose of "evaluating" its success could, in fact, seriously damage the Agency's capacity for evaluation. A two-year re-authorization would only serve to diminish the returns from investments already made and narrow the scope of future program efforts.

Several witnesses appearing before the Subcommittee have recommended that LEAA's authorization be amended to require that block grant funds be distributed directly to cities or city-county combinations, rather than through state planning agencies. These jurisdictions would have authority to develop their own plans, set priorities, evaluate programs, administer grants, and perform auditing and accounting functions. The remaining share of a state's allocation would continue to be distributed according to the current formula.

LEAA feels that bypassing the state criminal justice planning agencies would be detrimental to the dialogue and cooperation now occurring among cities, counties, and the states. This dialogue and the comprehensiveness of criminal justice planning are among the most significant achievements of the Omnibus Crime Control and Safe Streets Act. Without comprehensive state-wide planning and priority-setting, each jurisdiction would plan only for itself, with no overall objectives and goals set for the state as a whole. This would result in waste and duplication through uncoordinated efforts.

It should also be kept in mind that few urban areas operate their own complete criminal justice systems. State and county-operated court systems, state and county corrections systems, and state probation systems all impact on the law enforcement capability of an urban area. A funding system that bypassed the state would immediately provoke an imbalance in the system.

One of the key purposes of the LEAA program is to encourage states and units of general local government to develop and adopt comprehensive law enforcement and criminal justice plans based on their evaluation of state and local problems. Local input is presently an important element of the comprehensive planning process in which every state must participate in order to qualify for LEAA funds. The Omnibus Crime Control Act makes provision for involvement of localities in the decision-making process in numerous instances. For example:

Section 203(a) provides that any regional planning units which a state decides to establish must be comprised of a majority of local officials;

Section 203(c) provides that the state planning agency must make at least 40 percent of planning funds available to units of general local government;

Section 303(a) (2) requires that the states pass federal action funds through to local units of government and that the state assist localities in meeting match requirements;

Section 303(a) (3) mandates that every state plan must "adequately take into account the needs and requests of units of general local government in the State and encourage local initiative" in program development; in addition, funds must be allocated between the state and localities in a balanced manner;

Section 303(a) (4) makes provision for submission of plans to the State from units of general local government;

Section 303(a) (8) provides for a system of review whereby units of general local government can challenge alleged adverse state decisions.

It is inappropriate for certain jurisdictions to administer funds without regard for the rest of the criminal justice system. We have learned from hard experience in the High Impact Anti-Crime Program that where there is a go-it-alone attitude on the part of any component of the criminal justice system, delay and project weakness result. Thus, it is felt that the terms of current law, together with the additional authorization contained in S. 2212 for LEAA to fund programs in urban areas characterized by high crime, provide an adequate response to the needs of cities and other jurisdictions which are seeking direct funding.

Some of these same jurisdictions have requested that the restriction placed on the hiring of personnel with LEAA funds, contained in section 301(d) of the Safe Streets Act, be repealed. While it is understandable that in a time of economic difficulty many localities are hard-pressed to meet normal operating expenses, repeal of the cited limitation in an attempt to provide relief would seriously dilute the potential for innovation, modernization, and reform in criminal justice. Repeal of the provision could lead to permanent federal subsidies of operations budgets. This shift could then lead to "federalization," domination and control, or worse, of local law enforcement.

One of the major purposes of the LEAA program is to encourage states and localities to develop new methods to reduce and prevent crime and juvenile delinquency. To carry out this purpose, Congress has imposed certain specific statutory requirements for the program, including one that insures LEAA funds will not be used to support salaries to an unlimited extent.

Section 301(d) provides that not more than one-third of any Part C grant awarded to a state may be expended for compensation of police and other regular law enforcement and criminal justice personnel. The one-third salary provision was included in the Safe Streets Act because the Congress was concerned that responsibility for law enforcement not be shifted from state and local governments to the Federal Government. In addition, federal funds might supplant state and local efforts, instead of supplementing them.

In a few instances, remarks have been directed to the Subcommittee to the effect that there is excessive "red tape" involved in the administration of the LEAA grant program. While in some cases, regrettable and unforeseen difficulties have arisen and caused delay to certain applicants, I believe the Subcommittee will find that overall the program has been administered effectively and efficiently.

Prior testimony before the Subcommittee made reference to 1,200 pages of guidelines issued by LEAA to implement a 23 page Act. Such statements can be very misleading. LEAA has implemented the statute in a manner consistent with the intent of Congress in establishing the block grant program. Much of the material contained in guideline manuals is informational. Included are such items as reprints of the statute, OMB circulars, standard application forms, reporting forms, fund allocation tables, and address lists. All this material is provided for the convenience of the user, not to impose additional burdens on applicants, as one might be led to believe.

An example of the manuals issued by LEAA is the most recent edition of the "Guide for Discretionary Grant Programs." This manual, which is LEAA's largest program guideline document, has 224 pages of requirements and specifications. However, the specifications are for numerous different categories of programs. Any particular applicant would need only refer to the two or three pages under which funds were being sought, and a few pages of general requirements. In addition to the guideline requirements, the manual contains 15 informational appendices.

It should be noted that some of the information provided in LEAA guideline manuals relate not to requirements arising out of LEAA's legislation, but to other federal statutes which have been passed to deal with crucial issues of national concern. Examples of such statutes which may be considered by some critics to be LEAA "red tape," but over which we have no control, are the National Environmental Policy Act, the Clean Air Act, the Federal Water Pollution Control Act, the National Historic Preservation Act, the Uniform Relocation Assistance and Real Property Acquisition Act, and the Safe Drinking Water Act. Thus, it is unfair to single out LEAA as the cause for many requirements being imposed on those seeking assistance.

As you know, Mr. Chairman, provisions have been added to LEAA's enabling legislation which help assure swift action. By law, LEAA must approve or disapprove state comprehensive plans within ninety days of submission. State planning agencies must act on subgrant applications within ninety days of their receipt. LEAA has adopted a similar ninety day rule for consideration of any discretionary grant applications. I might add, Mr. Chairman, that there have been well over 100,000 grants made during the course of the LEAA program, with the number of applicants far exceeding that figure.

With regard to the application forms themselves, LEAA uses the standard forms for federal grant programs, prescribed by the Office of Management and Budget, in its discretionary grant program. This assures uniformity for all such applicants.

To clarify provisions of LEAA's enabling legislation and provide guidance on application, award, and grant administration procedures, a number of guideline manuals have been issued. Program manuals give information on programs and projects for which funds are available and guidance to prospective grantees about the steps to be taken in making application for funds. The manuals also give guidance to grantees on their responsibilities of applicable federal laws and regulations. Additionally specified are monitoring and evaluation policies and procedures.

Guideline manuals have also been issued to provide direction regarding specific issues concerning which grantees often require assistance. Examples are our audit guide, financial guide, and equal opportunity guidelines. Without the detailed information provided in these manuals by LEAA, many problems could arise for grantees which could only otherwise be resolved on a case-by-case basis, a very time consuming proposition.

Finally in this regard, Mr. Chairman, it should be pointed out that the LEAA program is essentially one administered by the states and by local governments. These jurisdictions all may have requirements which affect the management of the program, perhaps causing delay to applicants for funds. If inefficient management techniques are the cause of problems, LEAA may be able to provide the technical assistance necessary to upgrade capabilities and initiate effective techniques. In fact, we have taken such action in several instances. However, it would be inappropriate for LEAA to otherwise dictate to these jurisdictions the nature of their administrative procedures.

Representatives of state court systems appearing before the Subcommittee have taken issue with LEAA's estimate of the percentage of funds which goes for court programs. You will recall, Mr. Chairman, that we have indicated that courts projects receive in the neighborhood of 16 percent of LEAA program funds. Others, however, have voiced the opinion that the actual courts funding level is 6 or 7 percent, and have been critical of the fact that LEAA includes in the total such items as defense and prosecution projects.

It is extremely difficult to credit LEAA funds to exclusive program categories such as police, courts, or corrections. This is particularly true since as much as 40 percent of LEAA grants benefit multiple components of the criminal justice system. Criminal justice training academies receiving LEAA support are one example of this multi-component thrust. One week, courses may be given to prosecutors, one week to police officers, one week to probationary officers, and another week to judicial representatives.

Another example is the funding provided to support criminal history information systems. Such systems are used by nearly all elements of the criminal justice system, including police, the courts, and correctional agencies. There is no accurate way to assign a specific amount of these dollars to particular program categories.

Another difficulty in this regard is one of definition. There is a bona fide difference of opinion as to what actually is a court program. Certain projects to assist prosecution, defense, and probation functions have been characterized by LEAA as courts projects. Advocates of increased funding for the courts feel, however, that only those projects which directly benefit court operations be included in the definition, with other efforts being listed separately, perhaps as a new category.

LEAA is now attempting to resolve these differences and provide a discrete apportionment of all funding for courts projects under definitions acceptable to all interested parties. A special task force of judicial leaders and technicians has been commissioned to develop acceptable working definitions for categorizing projects, apply these definitions to LEAA project expenditure data, and determine the percentage of LEAA funds devoted to courts projects.

The last issues I would like to address are criticisms of the LEAA program which trouble me deeply. I am troubled not only because the criticisms are felt to be inappropriate and unwarranted, but because of the manner in which they were presented to the Subcommittee. Certain of the comments supporting the criticisms were misleading and incomplete, while other statements would clearly be shown not supported by the facts if careful investigation were undertaken. It is my hope that the Subcommittee, for the reasons I will discuss, will not be misled in its deliberations with respect to the LEAA program as a result of this testimony.

One issue which was raised in the testimony concerned certain aspects of LEAA's civil rights compliance effort. Because the organization which the witness represents is, and was at the time of the prior testimony, engaged in litigation with LEAA on these very matters, it would be highly inappropriate for me to discuss the substance of those particular remarks in this forum. LEAA is now preparing its response to the allegations involved in the litigation and will be most happy to provide the Subcommittee with a copy when formally submitted to the court. Needless to say, LEAA believes it is very effectively enforcing its civil rights responsibility, and it is felt that the results of litigation will clearly establish this fact.

LEAA's role in the development of information systems and the impact of such systems upon individual privacy was also called into question by this same witness. For the full information of the Subcommittee, I would like to briefly describe LEAA's involvement in the area of criminal justice information systems.

Quick and accurate data is vitally needed in the day-to-day operations of criminal justice agencies. The President's Crime Commission, in its 1967 report "The Challenge of Crime in a Free Society," stated:

"An integrated national information system is needed to serve the combined needs of the national, State, regional, and metropolitan or county levels of the police, courts, and corrections agencies, and of the public and the research community. Each of these agencies has information needed by others; an information system provides a means for collecting it, analyzing it, and disseminating it to those who need it."

From the time of its establishment, LEAA has received grant applications from states seeking to develop statewide criminal justice information systems. An initial review of state capabilities was conducted and it was determined that there was a central need for the development of a uniform format for criminal history records—one that could be used by all elements of the criminal justice system. As a result of this review, Project Search was initiated.

Search, an acronym for System for Electronic Analysis and Retrieval of Criminal Histories, began on June 30, 1969. It was designed to develop a prototype computerized criminal history exchange system. Its goal was to provide participating agencies with information about offenders in a matter of seconds.

Project Search has been concerned with the development of security and privacy policy in criminal justice information systems since its beginning. The original members of the Project Group that directs Search activities were sufficiently aware of the implications of a national, coordinated system for the exchange of criminal histories to cause security and individual privacy rights to be among the first issues addressed in the project. Almost immediately after initiation of the project, an ad hoc committee was formed to consider the extent to which Project Search should address these issues. The ad hoc committee was transformed into a standing committee on security and privacy within the first three months of project operation, and it is still active.

The committee soon developed a basic (minimum) set of regulations governing the operation of a prototype criminal history exchange system, which was adopted by the Project Group and incorporated into the operations manual for the prototype systems. The regulations included provisions for the control of data entered into the system, access to the system, and restrictions on the use of data.

The interest of LEAA has by no means been limited to the involvement in Project Search. In January 1971, for example, a notice was sent to all state planning agency directors to make them aware of their privacy responsibilities in funding organized crime programs. Also in 1971, the following special condition was added to the award which funded each state's comprehensive plan:

The grantee agrees to insure that adequate provisions have been made for system security, the protection of individual privacy and the insurance of the integrity and accuracy of data collection.

Similar language was subsequently incorporated in LEAA's guidelines as a "general condition" applicable to all grants from 1971 to the present.

In May 1972, LEAA took another significant step in the area of security and privacy with establishment of the Comprehensive Data System (CDS) program. This is a \$40 million discretionary grant program now in its fourth year of implementation. At the inception of CDS, the recommendations of Project Search regarding security and privacy were fully incorporated into the CDS guidelines. Present guidelines also require participating states to fully address the recommendations of the National Advisory Commission on Criminal Justice Standards and Goals, which deal extensively with the security and privacy of information.

Because all LEAA non-block projects for criminal history systems are funded through the CDS program, all such projects over which the Agency has direct control are subject to these restrictions. It is of note that 39 states now have approved CDS plans, meaning they have agreed to comply fully with security and privacy requirements.

The CDS guidelines require grantees to adhere to the rules defined in Search's Technical Report Number Two. Recommended "System Policies Related to Security and Privacy" from the report were entered in the Congressional Record by Senator Kennedy during debate on Section 524 of the Crime Control Act of 1973. The CDS guidelines also incorporate the Model State Act and the Model Administrators Regulation proposed by Project Search.

Pursuant to Section 524(b) of the Crime Control Act of 1973, LEAA has promulgated regulations to assure that Criminal history record information is

collected, stored, and disseminated in a manner to insure completeness, integrity, accuracy, and security of such information, and to protect individual privacy. Each state at the present time is in the process of preparing a Security and Privacy Plan which must be approved by LEAA. Discretionary funds have been awarded to help states gather the necessary data and prepare their procedures. In addition, extensive training sessions have been held throughout the country to apprise the criminal justice community with regard to these regulations and their impact.

In recognition of the importance of security and privacy issues related to the operation of criminal justice systems, LEAA will fund a study of current and prospective uses and needs for computerized criminal history information by various agencies. This study will provide information that can be utilized by both individual states and the federal government in connection with security and privacy requirements and procedures.

It should be noted that LEAA's concern for the privacy rights of individuals extends beyond the problems involving criminal histories. It was at the Agency's request that Section 524(a) was added to the Crime Control Act of 1973. This section provides LEAA with the statutory authority to assure the protection of privacy of persons who are the subjects of statistical and research information collected under LEAA-funded projects. Draft regulations implementing this provision were published in the Federal Register on September 25, 1975.

LEAA has continually been aware of the problems relating to security and confidentiality related to the operation of criminal justice information systems, and has acted in a most responsible manner to support efforts to insure that a proper balance is struck between societal needs for criminal justice information and the rights of individual privacy.

A suggestion was made in prior testimony that a privacy impact office be established through which grants would be evaluated and a determination made as to whether such grants fostered intrusions on privacy. Such activity is presently performed within LEAA's Office of General Counsel, however, and there is no reason these efforts should be duplicated by a new office. There is a continuous dialogue within the Agency with regard to such grants, and where privacy considerations so require, funding may be denied.

In this regard, there is one more point which should be made. In my address before the National Council of Juvenile Court Judges in May of this year, I did not, as was stated in the prior testimony to which I have referred, call for a vast national data bank to house, indiscriminately, records on any and all children who have or potentially may get into trouble. What was pointed out was a need for quantitative data collected for administrative and evaluative purposes in the juvenile justice area. I stated that:

"The goal should be a common thread that provides courts, police, corrections, and other law enforcement and criminal justice personnel with high-quality, narrowly-defined information to help them make decisions to protect the juvenile delinquent from himself, while at the same time protecting society from him."

LEAA is now in the process of developing standards in the area of juvenile records. We have funded the Juvenile Justice Standards Project being conducted by the Institute for Judicial Administration and the American Bar Association. Questions in this area will also be reviewed by a new Standards and Goals Task Force. LEAA is also working closely with the Domestic Council's Committee on Rights of Privacy to develop policy in this area. In addition, we have cooperated with the Congress since 1971 and have encouraged the enactment of comprehensive legislation dealing with the security and privacy of all criminal history information. Thus, Mr. Chairman, it can be seen that the Agency's interests do not fall within the area suggested in prior testimony.

The final issue I would like to discuss is the criticism that the Agency has failed to divert state and local law enforcement agencies from their preoccupation with "victimless" or "complaintless" crimes to make them concentrate their resources on the crimes that injure persons and property.

It is disturbing that it should even be suggested that LEAA ought to undertake to redirect the efforts of state and local law enforcement agencies from enforcing laws which certain individuals or organizations feel to be unjust or unwise, but which, nevertheless, have legal validity.

The Congress has continuously emphasized that law enforcement is, and must remain, essentially a state and local responsibility. Section 518(a) of the Safe Streets Act is the embodiment of this appropriate philosophy.

"Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other law enforcement and criminal justice agency of any State or any political subdivision thereof."

As you know, a great variety of programs designed to improve law enforcement are funded by LEAA. These programs are operated pursuant to a comprehensive plan developed by the state, and incorporating such projects as each state deems appropriate to further its own criminal justice priorities. It would be both inappropriate and illegal for LEAA to attempt to redirect law enforcement efforts as suggested or in any other direction. Decisions regarding the enforcement of particular criminal laws are ones which only the involved areas can make.

With regard to "victimless" crimes, it should be noted that the National Advisory Commission on Criminal Justice Standards and Goals did make some recommendations for possible state and local action. The Commission's reports were the product of intensive study and deliberation by outstanding members of state and local law enforcement agencies. While LEAA does not impose these recommendations on state and local units of government, we do actively assist and encourage them to go through the process of analyzing their criminal justice systems and adopting such standards as each finds appropriate and necessary.

Finally in this regard, I would like to point out that LEAA has provided support for some state and local efforts to divert certain offenders from the traditional criminal justice process and provide necessary treatment. An example is the Agency's sponsorship of discretionary grant projects which provide non-criminal processing for individuals who come to the attention of authorities as alcohol abusers. It must be emphasized, however, that such efforts are undertaken only with the full support of the participating jurisdictions and that no attempt is made to direct these jurisdictions to take such action.

Mr. Chairman, that concludes the presentation I wished to make regarding certain issues which have surfaced regarding the LEAA program. I would now be pleased to respond to any questions the Subcommittee may wish to pose.

Appendix to Testimony of Richard W. Velde

F. 3. LEAA EVALUATION AND PROGRAMS

I. LEAA EVALUATION POLICY

A. Policy Development in LEAA

LEAA has developed a comprehensive approach to evaluation policy and has begun implementation of far reaching programs of evaluation touching on all aspects of the LEAA program. Policy continues to evolve as LEAA learns more about the process of evaluation and more about how evaluation should be designed, carried out, and the results utilized.

Legislative Mandate

Although the legislative mandate for evaluation is contained in the 1973 amendments to the agency's legislation (P.L. 93-83), and in the Juvenile Justice and Delinquency Prevention Act of 1974, LEAA had begun to evaluate selected projects itself much earlier, and had also strongly encouraged evaluation by State Planning Agencies beginning in 1971. In 1972, LEAA initiated a major evaluation of the eight impact cities. Thus, while there was no major mandate in the legislation prior to 1973, LEAA had earlier recognized the need for evaluation and had taken steps to build evaluation into selected programs.

The Crime Control Act of 1973 provided further impetus for evaluation in the agency. It required that comprehensive law enforcement and criminal justice plans provide for "such" . . . monitoring and evaluation procedures as may be necessary", and it also required that the research arm of the agency, the National Institute of Law Enforcement and Criminal Justice, should undertake "where possible, to evaluate the various programs and projects" for the purpose of determining "their impact and the extent to which they have met or failed to meet the purpose and policies" of the Crime Control Act.

The results of evaluations are to be disseminated to State Planning Agencies and, upon request, to local governments.

A year later, the Congress added further evaluation responsibilities to LEAA when it passed the Juvenile Justice and Delinquency Prevention Act. The state plans required under this Act must provide for development of an "adequate evaluation capacity" within the State, and for an annual analysis and evaluation of program and project results. Further, the Act requires that programs funded under the Act are to continue unless the yearly evaluation of programs is unsatisfactory.

Evaluation Task Force and Its Policy Recommendations

Following the enactment of the new evaluation mandate in the Crime Control Act of 1973, LEAA established an evaluation task force whose task it was to develop recommendations for evaluation policy, programs, and responsibilities within LEAA and in the State Planning Agencies.

The Task Force was instructed to build upon previous LEAA evaluation efforts and respond directly to the new requirements for evaluation mandated by the Crime Control Act of 1973. The Task Force was authorized to develop a comprehensive evaluation program which would enable LEAA to identify valid, successful criminal justice programs and practices and would further the state of the art in evaluation of Federal social programs.

Specifically, the Administrator set these objectives for the Task Force:

a. To review the current level of evaluation activity carried out by all LEAA offices and the State Planning Agencies.

b. To develop a common understanding of what is meant by "evaluation," including both the form and the function of activities to be included (and excluded) under the term.

c. To develop evaluation goals and objectives for each part of the LEAA structure, including SPAs, that are mutually supporting and contribute to an overall agency evaluation goal.

d. To formulate by March 1, 1974 for the Administrator's review alternative program plans to implement the proposed goals, addressing:

(1) Appropriate evaluation task statements for LEAA offices and the SPAs;

(2) Appropriate SPA evaluation guidelines to be promulgated by the Administrator to supplant or supplement the existing guidelines;

(3) Appropriate funding mechanisms to implement the guidelines and program goals;

(4) Appropriate training and technical assistance programs to implement the guidelines and program goals.

e. To oversee the development of a series of alternative models for the SPAs to use in setting up their evaluation programs.

Members of the Evaluation Policy Task Force were appointed from all levels of LEAA, including the SPAs. This broad representation was designed both to enable input from all vital sources and to demonstrate LEAA's deep commitment to Federal-state partnerships in the implementation of the LEAA program.

The Evaluation Policy Task Force completed its work and submitted a final report to the Administrator, as scheduled, on March 1, 1974.

In general, the Task Force formulated three general evaluation goals for LEAA. These three goals were defined as follows:

a. To develop information on the effectiveness of criminal justice programs and practices—a knowledge goal,

b. To have all LEAA program managers employ management practices which use evaluative information in the formulation and direction of their activities—a management goal, and

c. To encourage all agencies in the criminal justice system to develop and utilize such evaluation capabilities—a development goal.

Once these three goals were chosen, programs were structured to achieve them. Funding mechanisms and model guidelines were drafted to implement them and the roles of each part of LEAA with respect to each program were analyzed. In summary, the three programs which were developed by the Task Force were designed to operate as follows:

a. *The Knowledge Program.*—The Knowledge Program has a strong national focus in its operation and utility. Basically, it recognizes that certain types of information can best be produced through a nationally coordinated evaluation. Yet it is designed to capitalize on the action grant program by building the evaluation designs around the operating projects. The results of the pro-

gram are expected to be of use to a national audience of criminal justice system planners and decision makers and to meet the Congressional mandate to identify what has been learned about reducing crime through the LEAA program.

Annual Survey.—The program, begins with an annual survey of every SPA to identify candidate projects for evaluation. SPAs are asked to identify their most expensive, their most crime effective, and their "best" projects. Other projects are contributed by the Regional Offices and national LEAA offices and the results grouped into identifiable project types.

Phase I Study.—From the projects which have been identified through the Annual Survey, a selected number are chosen for Phase I evaluation—a 4-5 month survey of what is currently known about the operational effectiveness of this type of project, and an analysis of alternative strategies for a full scale evaluation. The state of the art portion of the Phase I study is used to guide short term decision making; the alternative evaluation strategies would serve as the basis for choosing projects annually for long term "Phase II" funding.

Phase II Study.—This full scale evaluation is designed in close coordination with the state and local authorities administering the particular projects chosen as the basis for the study, their SPAs and Regional Offices. A combination of Institute, DF and state block grant funds would be used to support evaluation, program modifications, and the pursuit of issues of importance to the state itself. The Phase II study report consist of a full assessment of the utility of the project type under a variety of situations, and would also contain detailed standards for SPAs and operating agencies to use in assessing the effectiveness of similar programs which they fund or operate. The standards would set forth expected costs, level of effort, qualification of personnel, program results, and likely effects of particular program variations.

b. *The Management Program.*—The program for the Management Goal was designed to insure that evaluation becomes an integral part of the management process for each administrative level of LEAA. In particular, detailed guidelines have been developed for SPAs to follow in developing their evaluation program and their annual comprehensive plan. However, similar requirements for performing and utilizing evaluation in the management of their activities are recommended for all LEAA offices as well. The Office of Planning and Management is responsible for coordinating and assessing the effectiveness of this program.

c. *The Development Program.*—The Development Program aims at building evaluation capabilities in LEAA and in the entire criminal justice system. The program incorporates and coordinates a variety of activities, including training, technical assistance, and supporting model evaluations at various levels of LEAA and the criminal justice system. All of the activities of the Knowledge and Management Programs are structured to be maximally useful to the criminal justice community.

A detailed description of the implementation of each of these major programmatic thrusts is included below in the Section II—LEAA Evaluation Programs.

Policy Review and the Evaluation Policy Working Group

In order to ensure the continued development of coherent agency-wide evaluation policy, LEAA just recently held an Evaluation Policy Review Conference on September 10 and 11, 1975. The purpose of the conference was to review the status of the implementation of the recommendations of the initial evaluation policy task force and to make recommendations for further actions needed in order to continue the momentum generated by the first task force. Based upon this conference, a new Evaluation Policy Working Group has been created by the Administrator with the specific mandate of building on the earlier work of the Evaluation Policy Task Force, making recommendations for the resolution of any evaluation policy issues which have been identified in the eighteen months since the completion of the first evaluation policy report and preparing a final report to the Administrator in November, 1975.

Six Year Evaluation of LEAA's Program

Six months after the evaluation task force report of March, 1974, LEAA began to plan for a full scale six year evaluation of the impact and effectiveness of the entire LEAA program. A full scale evaluation was undertaken in order to review fully and build on the successes of the LEAA program as well

as to learn from those activities which proved less successful. No such broad evaluation had been undertaken and after six years of operation, LEAA's top management believed such a review was essential, and should be done by outside contractors whose objectivity would be unquestioned.

The Advisory Committee on Intergovernmental Relations, as part of its overall examination of block grant programs, agreed to examine in greater detail the impact of the LEAA block grant program on states and local governments, on the crime problem, and on law enforcement and criminal justice systems at the state and local level.

The National Academy of Science has undertaken a full review of the quality and utility of the research undertaken by the National Institute of Law Enforcement and Criminal Justice since 1968. The Brookings Institution is engaged in a comparison of the uses of revenue sharing funds in the law enforcement and criminal justice area with the use of LEAA dollars. Other contractors will examine the effects of grant programs in information systems and statistics development. The results of these evaluations will be available early in calendar 1976 for review and analysis. A final report which incorporates these evaluations and draws conclusions from them will be available before March 1, 1976.

The conclusions will be used by LEAA management to examine the LEAA program and make such changes as appear to be necessary to make the program more effective and efficient. The Congress should also find these evaluations useful in the continuing review by the Congress of the LEAA program.

B. Current Policy.—The evaluation policy of LEAA continues to evolve as evaluation results begin to flow in, and as lessons are learned about how to design and conduct evaluations. Guidelines for State Planning Agencies and for programs funded with discretionary funds have been revised twice in the last 18 months (since March, 1974). A system of utilizing and disseminating evaluation results has begun to develop within the National Institute of Law Enforcement and Criminal Justice. Technical assistance activities are increasing as staff and staff capabilities increase. Training programs for both LEAA and state and local personnel are under development, and will be offered soon. Roles and responsibilities have been clarified, but as new tasks emerge, those roles will continue to change in some respects. Specific policy positions in these areas are described below.

1. DF Guidelines.—The LEAA Guidelines for the discretionary grant programs clearly define the high priority which LEAA has placed upon performance measurement and evaluation in these programs. These guidelines are contained in Guideline Manual M 4500.1D—Guide for Discretionary Grant Programs published on July 10, 1975.

The monitoring and evaluation requirements set forth in this manual are designed to assure that information is systematically generated about the level of, and the reasons for, the success or failure which is achieved by projects and programs funded with LEAA discretionary monies. More specifically, the purpose of these requirements is to provide for a process which permits determination of the extent to which discretionary fund projects are contributing to LEAA program objectives, general objectives, and overall goals and to determine the relative effectiveness and cost of different approaches to the same objectives. These guidelines explain that LEAA expects that four types of performance measurement will take place with respect to discretionary grants. These include self-assessment by the grantee, monitoring by appropriate LEAA offices; and project and program evaluation. The last two kinds of performance measurement are undertaken only in selected discretionary program areas and will normally be carried out either by LEAA or by a contractor selected by or approved by LEAA.

Each grant application for discretionary funds must provide the prerequisites for self-assessment by the grantee and for monitoring by LEAA of the activities to be carried out by the grantee. Specifically these prerequisites include at a minimum the following:

- a. The identification of the problem which the grant addresses in measurable terms.
- b. A clear statement of project goals or objectives in tangible, measurable terms. The goals or objectives should denote the project's impact on the reduction of crime and/or delinquency, or the improvement of the criminal justice system, or both.
- c. A statement of the hypotheses and working assumptions which provided the conceptual foundation and thrust for the project.

d. Specific indicators and measures to be used to assess the results of the project against its own objectives, and also to be used in assessing its contribution to the program and general objectives of LEAA.

e. A description of the means to be used in collecting data and information needed to measure and assess project performance. All these elements must be combined into a performance measurement plan which must be a part of each grant application. This plan forms the basis for grantee self-assessment as well as LEAA project monitoring.

In addition specific criteria are established in these guidelines for the selection by LEAA of programs and projects for intensive evaluation. These criteria include the size of the grant, its innovative character, possibilities or transferability, the nature of the project and the cost and difficulty of the evaluation among others. Because of the high priority which has been placed upon all the programs funded by the LEAA Office of National Priority Programs (ONPP) every single project funded through this office is required to be intensively evaluated. Each grant application submitted to this office for funding is required to contain a detailed evaluation plan and to designate an independent professional evaluation subcontractor, selected by the grantee, to be approved by ONPP, and paid out of grant funds.

2. *SPA Guidelines.*—The high priority which LEAA has placed upon evaluation in its discretionary programs is mirrored in the performance measurement requirements which it has placed upon State Planning Agencies for the administration of the block grant part of the LEAA program. These requirements are clearly defined in Guidelines for State Planning Agency Grants—Guideline Manual 4 4100.1E.

The requirements articulated in these guidelines are specifically designed to aid in achievement of three broad purposes:

1. The increased utilization of performance information at each level of the law enforcement assistance program in planning and decision making in order to assist program managers in achieving established goals;

2. The acquisition and dissemination of information on the cost and effectiveness of various approaches to solving crime and criminal justice system problems; and

3. The gradual development within state and local criminal justice system units of an increasingly sophisticated evaluation capability as part of their management systems.

The guidelines clearly define the critical distinction which LEAA has drawn between monitoring and evaluation and indicate that the SPA is required to monitor the performance of all projects which it supports and to intensively evaluate selected projects or groups of projects according to its planning needs. In its planning grant application the SPA is required to develop a State strategy for executing these monitoring and evaluation responsibilities. Specific criteria are recommended to the SPA for the selection of projects or programs for intensive evaluation. The SPA is required to take account of the results of the national evaluation program and its own evaluations in planning its future activities and to forward copies of all final reports of intensive evaluations to the LEAA regional office and to the National Institute.

In its annual action program, the SPA is required to indicate in even greater detail specifically which projects or programs it has chosen to be intensively evaluated, the criteria by which they were chosen, the resources allocated to this level of evaluation and the process in which these intensive evaluations are to be implemented.

In addition, in its annual action program each year, the SPA is required to give a detailed progress report for each program which it funded in the last complete funding cycle in the State. This progress report must include the findings of any intensive program and project evaluations which the SPA may have undertaken. Finally, in the progress report section, the SPA is required to provide specific reports on a minimum of 10 selected projects which have produced substantial evidence of having had a measureable impact in either the reduction of crime or the improvement of the criminal justice system and which evidence particular promise of future success and possibilities for replication elsewhere.

3. *Evaluation Utilization.*—To assure the maximum benefit from its evaluation program, LEAA has promoted the use of criminal justice evaluation information on a nationwide scale. Within the National Criminal Justice Reference Service, LEAA has established a clearinghouse of evaluation re-

ports. Program planners and project personnel can now easily obtain examples of evaluation research for numerous types of projects. A more systematic collection of evaluation information has been compiled for major topic areas, such as Youth Service Bureaus, under the National Institute's National Evaluation Program (NEP). The first phase of NEP products will include an assessment of our current knowledge about how well particular programs work in various jurisdictions around the country and a design for more rigorous study of these programs' operations.

The National Institute has also identified several innovative criminal justice programs which are exemplary and has encouraged their adoption by local agencies. This encouragement has taken the form of direct grant support to selected jurisdictions and the complete documentation of program operations and results for dissemination to criminal justice agencies throughout the country.

4. *Training and TA.*—The development of evaluation capability throughout the criminal justice system is a new but fully operational responsibility of LEAA. A pilot effort in this direction is the National Institute's Model Evaluation Program. This experimental program is designed to encourage selected jurisdictions to create and implement their own, locally developed evaluation strategies. An independent contractor will document this implementation and assess the ability of these SPAs and RPUs to generate and use evaluation information. Workshops are being developed to train operational agency personnel in the techniques of evaluating specific programs.

Technical assistance in evaluation is also being offered through LEAA's 10 regional offices in two major ways: (1) the planner-evaluator in each regional office is providing assistance on request to State Planning Agencies, to Regional Planning Units, and to local governments in evaluation design and techniques; and (2) through a contractor with extensive experience in evaluation of governmental social programs, the Urban Institute, the regional offices are providing several days of technical assistance provided by the Urban Institute to State Planning Agencies.

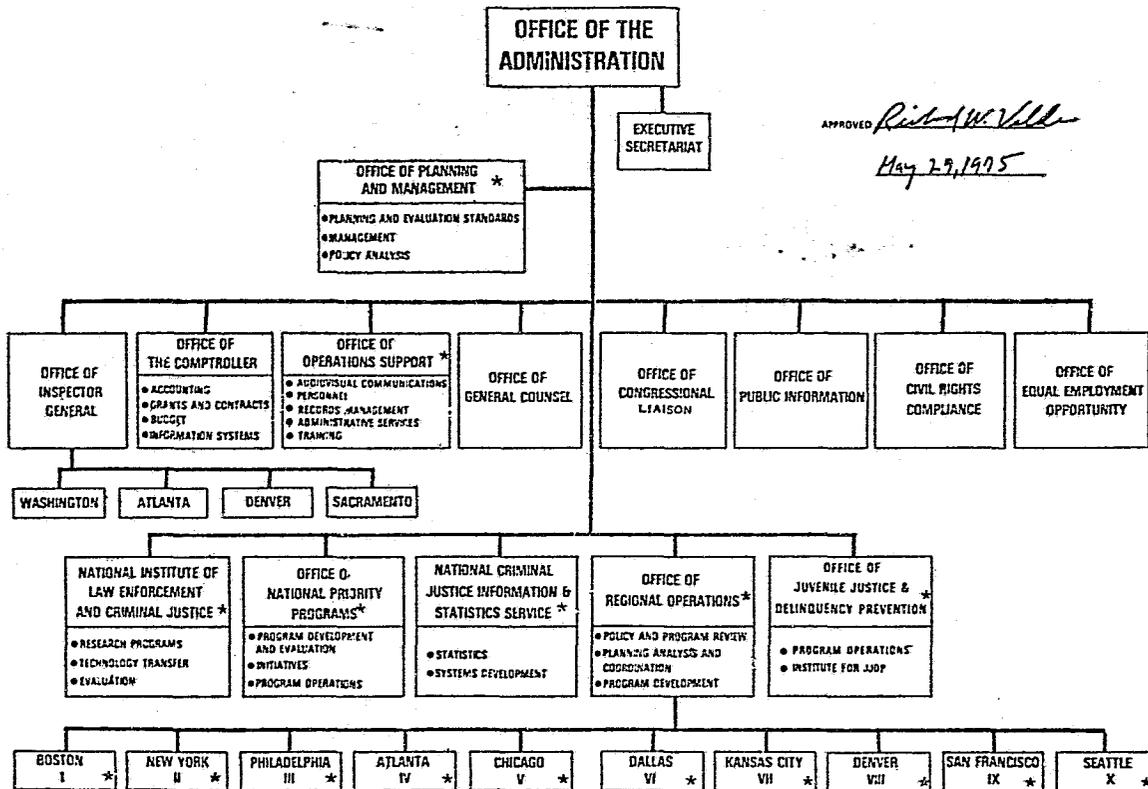
In November, 1974, the National Institute's Office of Evaluation sponsored a conference in Atlanta which was aimed at providing assistance to state and local attendees in such questions as how to organize for evaluation, how to select evaluators, how to manage evaluations, and how to utilize evaluation results. Another conference is being planned for spring, 1976, at which results of evaluations of law enforcement and criminal justice programs and projects will be presented to a nation-wide audience of state and local attendees. Both conferences are designed to give aid to state and local evaluators.

Two kinds of evaluation training are now under development. The Office of Evaluation is developing a program to train corrections program evaluators, whose purpose it will be to measure the effectiveness of corrections programs, a high priority of the Congress. The Training Division of the Office of Operations Support is developing, in cooperation with other offices in LEAA a one-week course designed to teach monitoring and evaluation skills to state and local monitors and evaluators. This one-week course should be completed and ready for trainees early in calendar 1976.

C. *Roles and Responsibilities.*—The responsibility for evaluation within LEAA is shared among a number of offices. One office, the Office of Planning and Management, is charged with general oversight responsibility for evaluation within the agency. It also has general responsibility for development of policy recommendations in evaluation. Four offices—the Office of Regional Operations, the Office of National Priority Programs, the Office of Juvenile Justice and Delinquency Prevention, and the National Criminal Justice Information and Statistics Service—make grants for projects which require or encourage evaluation of those projects and of the programs of which they are a part.

Still another office, the National Institute of Law Enforcement and Criminal Justice, is engaged in the provision of funds for major program evaluations, in the development of evaluation methodology, and in provision of funds for selected kinds of technical assistance. It also is engaged in the conduct of some selected program and project evaluations. Finally, one office, the Office of Operations Support, is involved through its Training Division in the development of training programs in evaluation. An LEAA organization chart is attached, indicating (by asterisk) the offices which have evaluation responsibilities. Following the chart is a brief description of evaluation roles of each office.

LEAA ORGANIZATION CHART



APPROVED *Richard W. Valdez*
 May 29, 1995

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Explanatory Attachment to LEAA Organization Chart

Office of Planning and Management.—Performs general policy oversight, develops evaluation standards, assures that policy is being fully implemented and methods being developed to fill policy gaps and assure coordination of evaluation activities throughout the agency.

National Institute of Law Enforcement and Criminal Justice.—Provides major source of funds for evaluation, conducts major program and project evaluation for agency as a whole, provides aid to LEAA offices which have programs and projects to evaluate in the design and conduct of evaluations, provides aid to states and local governments in design and conduct of evaluations, provides for dissemination of evaluation results.

Office of National Priority Programs.—Assures that every program it administers and every project to be funded within the programs it administers contains an acceptable evaluation plan which meets the criteria of the LEAA guidelines, and provides for the acquisition of knowledge which will assure that the program and projects can be judged as to whether they achieved their objectives. Has a Program Planning and Evaluation Division of three professionals within the Office.

National Criminal Justice Information and Statistics Service.—Assures that every program it administers and every project to be funded within the programs it administers contains an acceptable evaluation plan which meets the criteria of the LEAA guidelines, and provides for the acquisition of knowledge which will assure that the program and projects can be judged as to whether they achieved their objectives. Has no special evaluation unit or division at present.

Juvenile Justice and Delinquency Prevention Task Group.—Assures that every program it administers and every project to be funded within the programs it administers contains an acceptable evaluation plan which meets the criteria of the LEAA guidelines, and provides for the acquisition of knowledge which will assure that the program and projects can be judged as to whether they achieved their objectives. Has a Research and Evaluation subgroup of four professionals within the larger group.

Office of Regional Operations.—Assures that every program it administers and every project to be funded within the programs it administers contains an acceptable evaluation plan which meets the criteria of the LEAA guidelines, and provides for the acquisition of knowledge which will assure that the program and projects can be judged as to whether they achieved their objectives. Has no evaluation unit within the central office. The central office has responsibility for a group of discretionary fund grant programs, as well as for the operations of regional offices.

In the regional offices, there is one person assigned to that office whose title is planner-evaluator whose task it is to provide technical assistance to grant applicants and recipients on evaluation and to consult with the Office of Evaluation in NILECJ if there are evaluation issues on which consultation is required; and whose task it also is to review the evaluation components of state comprehensive law enforcement and criminal justice plans.

Office of Operations Support.—The Division of Training within this office has responsibility for development of training programs in evaluation for LEAA personnel, as well as for State, regional, and local evaluators.

II. LEAA EVALUATION PROGRAMS

The nature of the evaluation program within LEAA requires that the program responsibilities and activities in each office be fully detailed. An earlier report dated April 2, 1975, to the Office of Management and Budget detailed office evaluation activities as of March, 1974. This report updates that earlier account.

A. Office of Planning and Management

The Office of Planning and Management has an oversight and policy development responsibility in evaluation. Its Division of Planning and Evaluation Standards attempts to assure, through recommendations, and through continuous monitoring of evaluation programs and activities in all offices within LEAA, that evaluation policy is being consistently followed by all offices within LEAA. The Office of Planning and Management regularly calls together the persons in each office with evaluation responsibilities for consultation

and discussion of issues. In February, 1975, and again in September, 1975, the Division organized formal conferences on evaluation programs and progress. In September, 1975, the Division Director was named to chair an evaluation policy task force to review policy issues which have arisen and to recommend ways to resolve those issues by November 1, 1975.

B. The National Institute of Law Enforcement and Criminal Justice

Evaluation research has been a significant part of the National Institute's activity since its inception. During the past six years, more than \$20 million in Institute funds has supported evaluation studies or research projects with a major evaluation component.

The Crime Control Act of 1973 directed the National Institute "where possible to evaluate the various (LEAA) programs and projects to determine their impact upon the quality of law enforcement and criminal justice. . ." In response to this mandate, the Institute expanded its ongoing evaluation efforts into a comprehensive evaluation program.

Working from the recommendations of the LEAA Evaluation Policy Task Force set forth in its March, 1974, report, the Institute's evaluation program is designed to:

Assess the cost and effectiveness of a wide range of criminal justice programs and practices.

Enhance the management of LEAA programs by encouraging the use of evaluation results in planning and operations.

Build evaluation capabilities at the Federal, state, and regional level through development of sophisticated evaluation methods and model evaluation programs.

To perform these functions, the Institute has:

Established an Office of Evaluation, charged with developing effective evaluation tools, performing evaluations of major LEAA and criminal justice initiatives, and bolstering the resources available to the states.

Launched a National Evaluation Program, through its Office of Research Programs, to analyze the operations and results of widely-used criminal justice programs.

Initiated a major assessment of the LEAA experience over the past six years, which will examine the impact and effectiveness of the Federal crime control program.

1. *Office of Evaluation.*—The Office of Evaluation is responsible for developing new methods of evaluation for the criminal justice field, for evaluating major criminal justice initiatives such as the Impact and Pilot Cities Programs and for assisting the states in improving their evaluation efforts.

Capacity Building

In its first year, the Office of Evaluation has concentrated on building evaluation capability at the state level. Among its principal efforts in this area are:

The Model Evaluation Program—a \$2 million competition open to state planning agencies and regional planning units. Its goal is development of model evaluation systems which can be used by groups of states or regions which share similar problems or characteristics. This experiment will encourage state and local agencies to generate and use evaluation information.

This program will assess how such information can be used to help local agencies achieve their objectives. Eleven grants have been awarded: 6 to SPAs, 5 to RPUs. (A 12th is under consideration).

A \$336,000 grant to the Urban Institute will provide assistance in implementing and evaluating the success of the Model Evaluation Program. The funds will also provide support for technical assistance to state planning agencies and Regional Office Planner/Evaluators and for the identification of evaluation research needs.

An evaluation clearinghouse has been established at the National Criminal Justice Reference Service. This effort will bring together and disseminate all available information on evaluation activities at the Federal, state and local levels.

Studies of the evaluation and monitoring systems currently existing at the state level have been completed and prescriptive reports have been distributed to all state planning agencies and regional planning units.

Program Evaluation

A continuing responsibility of the Office of Evaluation is to provide evaluations of major LEAA programs and other criminal justice initiatives of national importance.

The Evaluation of the Pilot Cities Demonstration Program has been completed. The final report from the American Institute for Research argues that the twin goals of system innovation and system improvement often conflicted. The Pilot Team approach, they argue, was successful in promoting improvements in local criminal justice operations though not an efficient approach to creating innovation in criminal justice techniques.

The National Level Evaluation of the Impact Cities Program continues as a major effort and is planned for completion by December, 1975. Samples of evaluation designs used to assess particular projects supported by the Impact program have been compiled in a report and disseminated throughout the country. With separate components for police, courts, corrections, and target-hardening techniques, the report illustrates numerous evaluation approaches which can aid planners and policymakers.

The Office of Evaluation is currently sponsoring intensive evaluations of the following NILECJ Demonstration programs:

1. Family Crisis Intervention.
2. Community-Based Corrections.
3. Neighborhood Team Policing.

FY 76 plans include evaluation projects for the Lower Court, Case Handling Demonstration Program. In addition, the LEAA Career Criminal and Standard and Goals programs will be assessed by Office of Evaluation supported projects. An assessment of the automatic vehicle monitoring project in St. Louis is currently underway.

Major criminal justice initiatives of national significance have also been subjects of National Institute program evaluations.

These initiatives include: 1. The New York Drug Law; and (2) Alcohol De-toxification Programs.

Planned program evaluations for FY 76 include: 1. The Massachusetts Gun Law; and 2. the Alaska Plea-Bargaining Restrictions.

Evaluation Research

The Office of Evaluation is promoting the development of new techniques and resources for the evaluation of criminal justice programs.

Under a grant from NILECJ, the University of Illinois is examining the feasibility of establishing a computer-based Data Archive for criminal justice research and evaluation.

The use of stochastic modeling techniques are being investigated as a tool for predicting changes in crime statistics. The procedure has been utilized successfully in Atlanta and is now being tested with data from other cities.

A grant has been let to evaluate the state of the art in criminal justice system modeling and to assess their utility for local planning and decision-making.

2. National Evaluation Program.—The purpose of the National Evaluation Program (NEP) is to produce and disseminate to criminal justice policymakers at all levels practical information about the level of effectiveness, cost and problems of various widespread law enforcement and criminal justice programs.

Basically, the NEP, implemented in fiscal year 1975, consists of a series of phased evaluation studies in various areas of criminal justice activity, including those LEAA supports through its block grant program. Each evaluation study concentrates on a specific "Topic Area" consisting of on-going projects having similar objectives and strategies for achieving them. In a "Phase I" study of a topic area, existing information and prior studies relating to the area are collected and assessed and a design developed for further in-depth evaluation necessary to fill significant gaps in our present knowledge concerning the area. Each Phase I assessment, conducted over a period of six to eight months, results in the following: A state-of-the-art review; descriptive material documenting the typical internal operations of projects in that topic area; an analysis of available information drawing conclusions about the efficiency and effectiveness of projects in the topic area; a design for an in-depth or "Phase II" evaluation of the topic area to fill gaps in existing

knowledge; and an evaluation design for typical projects in the topic area which will assist project administrators in assessing their own operations.

Where appropriate, the design for an in-depth evaluation will be implemented as an intensive Phase II evaluation.

Topic Areas for Phase I assessments during fiscal years 1975 and 1976 were selected in cooperation with the LEAA Regional Offices and the State Planning Agencies. To date, a total of 19 Phase I assessments have been funded in the following topic areas:

Youth Service Bureaus.

Juvenile Diversion.

Alternatives to Incarceration of Juveniles.

Juvenile Delinquency Prevention Projects.

Custodial Detention of Juveniles and Alternatives to its Use.

Operation Identification Projects.

Citizen Crime Reporting Programs.

Citizen Patrol Projects

Specialized Police Patrol Operations.

Police Crime Analysis Projects.

Traditional Preventive Police Patrol.

Neighborhood Team Policing Projects.

Pre-Trial Release Programs.

Pre-Trial Screening Projects.

Court Information Systems.

Residential Inmate Aftercare (Halfway Houses).

Early Warning Robbery Reduction Projects.

Treatment Alternatives to Street Crime Projects.

Security Survey/Community Crime Prevention Programs.

In addition, applications for Phase I funding are now being processed in the topic areas of Police Intelligence Units, Indigent Defense Programs, Furloughs for Prisoners Programs, and Intensive Special Probation Programs. Fiscal 1976 plans call for carrying out additional Phase I assessments in the following topic areas:

Police Juvenile Units.

Juvenile Court Intake Units.

Citizen Victim Service Projects.

Street Lighting Projects.

Security of Urban Mass Transit System.

Co-Ed Correctional Institutions.

In-Prison Disciplinary and Grievance Procedures.

Institutional Education Programs for Inmates.

Employment Services for Releasees and Probationers in the Community.

Of the 19 funded Phase I assessments, two have been completed, the studies of Operation Identification Projects and Youth Service Bureaus. A report summarizing the findings of the Operation Identification assessment has recently been disseminated to criminal justice policy-makers at the national, regional, state and local levels. Reports from the Phase I assessment of Youth Service Bureaus have been received and are currently under review in the National Institute. Twelve additional Phase I studies are scheduled for completion by the end of calendar 1975. Widespread dissemination of all Phase I reports is planned.

Later in fiscal 1976, the first Phase II evaluations will be funded.

3. *Exemplary Projects.*—LEAA's Exemplary Projects Program is a systematic method of identifying outstanding criminal justice programs throughout the country, verifying their achievements, and publicizing them widely. The goal: to encourage widespread use of advanced criminal justice practices.

Rigorous screening procedures have been established to glean only the very best programs—those which warrant adoption on a broad scale. To be eligible for consideration projects must:

Be operational for at least a year.

Have significantly reduced crime or measurably improved the operations and quality of the criminal justice system.

Be adaptable to other jurisdictions

Following review by staff of the Institute's Office of Technology Transfer, the most promising submissions are validated by a contractor, working under OTT direction. The validation process includes an objective analysis of the

project's achievements and an on-site assessment of its operations. The resulting report is submitted to a nine-member Advisory Board, which includes representatives from the state criminal justice planning agencies and LEAA Central and Regional Offices. The Board meets twice a year to select the Exemplary projects.

Brochures and detailed handbooks are then prepared on each Exemplary Project to guide policymakers and criminal justice administrators, interested in benefiting from the project's experience. The reports provide considerable detail on operating methods, budget, staffing, training requirements, potential problem areas, and measures of effectiveness. Particular attention is focused on evaluation methods which allow other localities to gauge their own success and shortcomings.

To capitalize further on the progressive concepts of these Exemplary Projects, the National Institute also sponsors training workshops throughout the country. During the past year, interested communities have had the opportunity to learn how to implement programs patterned after the Des Moines, Iowa, community-based corrections system and the Columbus, Ohio, citizen dispute settlement program. In the current year, workshops will cover the Sacramento, California, diversion program for juvenile status offenders.

Projects which have been designated by LEAA as of August 1975 include: Volunteer Probation Counselor Program, Lincoln, Nebraska; Fraud Division, King County (Seattle) Prosecutor's Office, San Diego County District Attorney's Office; Street Crime Unit, New York City Police; Central Police Dispatch, Muskegon County, Michigan; Administrative Adjudication Bureau, New York State Department of Motor Vehicles; Prosecutor Management Information System, District of Columbia; Community-Based Correction Program, Polk County, Iowa; Citizen Dispute Settlement Program, Columbus, Ohio; 601 Juvenile Diversion Project, Sacramento, California; Providence Education Center, St. Louis, Missouri; Neighborhood Youth Resources Center, Philadelphia, Pennsylvania; and Public Defender Service, District of Columbia.

4. *Compendium of Selected Criminal Justice Projects.*—In addition, LEAA has initiated a two-pronged effort 1) to develop an inventory of the more promising LEAA-funded projects and 2) to develop a system for the routine identification, validation, evaluation and eventual transfer of particularly promising criminal justice operations.

In June 1975, a Compendium of Selected Criminal Justice Projects was produced based on a national survey and independent verification. Descriptions of over 800 projects and their impact are presented for four classes of projects 1) exemplary projects, 2) prescriptive packages, 3) promising projects, and 4) state and local support projects. Nomination and selection of projects for these designations is being institutionalized in LEAA to insure the maximum use and identification of the independently verified promising projects.

C. Office of National Priority Programs

The Office of National Priority Programs has responsibility for the development, funding, implementation, monitoring and evaluation of new program initiatives in those areas designated by the Administrator as being of the highest national priority. The Program Development and Evaluation Division of the Office has responsibility for the implementation of the evaluation policy of the agency and of the Office. The major programs administered by the Office are: standards and goals programs and projects, citizens' initiative programs and projects, and career criminal programs and projects. New programs in the areas of crime prevention and crimes against business are planned for this fiscal year. The procedure followed by the Office involves notification to applicants of the policy and procedures which apply to every grant application through program announcements and through the Guide for Discretionary Grant Programs, which contains a special section on the programs administered by the Office and a special paragraph on its evaluation procedures (paragraph 55 in Guideline Manual M4500.1.D).

The basic components of the procedures followed by the Office are as follows:

1. Independent, objective evaluation of impact is to be built into each project from its inception.
2. Specific professional-level criteria are listed both for the evaluators and for the evaluation plans.

3. Evaluation plans and evaluation reports must be reviewed and approved by ONPP's professional evaluation specialists.
4. The policy applies to all applications which are submitted to ONPP for direct funding and monitoring.
5. The cost of evaluation is included in the cost of the project.
6. Initial and continuation funding is contingent upon compliance with the evaluation policy.
7. Quarterly and final evaluation reports are required.

During FY 75, these evaluation procedures were used by the Office in the review and action on 31 grant applications, ranging in size from \$22,000 to \$1.3 million. In most cases, the applications were already in process by the time the new procedures, instituted only in the latter half of FY 75, began to be used. No final evaluation reports have been produced which reflect the impact of the new procedures. The new procedures are having an impact on the design of projects and grant applications.

All applications now have evaluation plans in them when received. Increasing numbers of applications have satisfactory plans, with a full evaluation plan and quantifiable objectives where those are possible and appropriate.

The evaluation unit in the Office also reviews evaluation results for quality and utility, reports its analyses to grantees and to grant monitors, and makes recommendations for ways in which evaluation and evaluators can be improved, as well as way in which evaluation results can be used to modify project design.

D. National Criminal Justice Information and Statistics Service

This office makes grants for the development of comprehensive data systems at the state level and also for development of specialized criminal justice and law enforcement information systems. It also makes grants for the collection, analysis, and dissemination of statistics about law enforcement and criminal justice. Two major divisions, the Systems Division and the Statistics Division, carry out these responsibilities. Evaluation plans are benignly built into grants.

The Systems Division has initiated two major studies which are evaluative in character. These are:

1. *The CDS Cost and Benefit Study.*—This study was initiated in FY 74 in response to a General Accounting Office recommendation that both Federal Government and the individual states should have better projection of the potential costs and benefits associated with implementation of the Comprehensive Data Systems Program.

The Institute for Law and Social Research received a \$203,000 grant to project the total developmental and yearly operating costs for CDS implementation in the 50 states plus D.C. and Puerto Rico through 1984, and to develop a cost-benefit methodology to support policy decisions re:

Financial implications of the CDS program at the Federal level.

Assignment of system development priorities for cost/benefit maximization.

Financial implications of states assuming responsibility of CDS operating costs once the Program is fully implemented.

This study will provide major input to LEAA decisions regarding future funding strategies for the CDS Program. The final project report became available in August, 1975.

2. *Review and Assessment of Telecommunications Planning in the 50 SPAs.*—The Associated Public Safety Communications Officers, Inc., is conducting an intensive review and assessment of current telecommunications planning in each of the 50 State Planning Agencies. Although the major objective of this two year project is the development of a model intra-state telecommunications plan for use by state law enforcement planners, the major project activity focuses on evaluation of individual state planning efforts. Evaluative information on the extent and types of telecommunications planning being carried out in each state will be analyzed for effectiveness and summaries of individual state assessments will be compiled in a reference document which depicts the status of each state's planning efforts relative to others. This national assessment will be completed in December, 1975.

The Statistics Division has a contract with the National Academy of Sciences to evaluate the victimization survey and the national crime panel which have been the mechanisms used by LEAA to obtain the victimization data. The final report is due in January, 1976.

E. Office of Juvenile Justice and Delinquency Prevention

The Juvenile Justice and Delinquency Prevention Act of 1974, signed into law on September 7, 1974, created a major new Federal program to combat juvenile delinquency and to improve juvenile justice. Congress enacted this legislation because, in its words, "existing Federal programs have not provided the direction, coordination, resources, and leadership required to meet the crisis of delinquency."

The Juvenile Justice Act established within LMAA the Office of Juvenile Justice and Delinquency Prevention and, within that Office, the National Institute for Juvenile Justice and Delinquency Prevention. The Institute was given four major functions: (1) coordinating and funding delinquency prevention programs, (2) establishing training programs for personnel connected with the treatment and control of juvenile offenders, (3) developing standards for the juvenile justice system, and (4) collecting and disseminating useful information.

Planning for Evaluation

The Institute believes it is important that planning a program and planning for the evaluation of that program go hand in hand. In this way, projects can be designed to facilitate useful and meaningful evaluations.

The tasks necessary to plan for program evaluation are not being handled exclusively by Institute staff. The Institute involves a group of outside experts to assist in this effort. This grantee is chosen before any work is undertaken in planning for a program area.

The evaluation planning group is represented in every stage of planning for the program initiative. It has responsibility to:

Assess knowledge relevant to the program area topic and to report on this in a background paper.

Participate in meetings concerned with strategy development.

Provide assistance in developing guidelines that are part of the program announcement.

Review concept papers and preapplications to assess whether their design will facilitate a good evaluation.

Make site visits to potential grantees to determine the availability of data and whether the program contemplated is valuable.

Complete development of the evaluation strategy and the research design during the period that the final action grant applications are being developed and processed.

These tasks to date have been carried out for the status offender program, the first of the priority areas. Planning is now underway for the second area, diversion. The grantee undertaking the work for the status offender program is the Social Science Research Institute of the University of Southern California; Project Directors are Dr. Solomon Kobrin and Dr. Malcolm Klein. The grantee for the diversion area is Portland State University; Project Director is Dr. Don Gibbons. Grantees have not yet been chosen for the two remaining priority areas.

A separate group of related awards will be made to undertake the actual evaluations of projects funded under each program area. One grantee will be responsible for coordinating the evaluations of all projects funded under a program area and for developing a comprehensive report. Separate awards will be made to conduct the on-site portion of the evaluations of separate action projects funded under a program initiative.

Assessing Current Knowledge

As mentioned above, the first task of each evaluation planning group is to compile and assess available knowledge about each subject area. To a large extent these efforts will draw upon the results of a series of studies initiated a number of months ago. These studies, undertaken through the National Evaluation Program (NEP) of the National Institute of Law Enforcement and Criminal Justice (NILECJ), will conceptualize the topic area, develop a taxonomy (or system of classification) of project types within the universe being studied, make site visits, review existing relevant literature, synthesize existing knowledge, and develop research designs for future evaluations.

The first NEP study, on Youth Services Bureaus, (Schuchter and Polk—Boston University) has been completed and the revised final report is due

soon. Other studies, on diversion and alternatives to incarceration (Rutherford—University of Minnesota), alternatives to detention (Pappenfort—University of Chicago), and delinquency prevention (Walker—Ohio State University) will be completed by November.

There are other knowledge assessment projects also being funded whose results will feed directly into program initiative planning. These include a study of juvenile gangs in the 12 largest U.S. cities (Miller—Harvard University Law School), and a study of intervention programs designed to reduce crime in the schools (Marvin—Research for Better Schools Laboratory). The Institute also is beginning assessments of intervention techniques for the treatment of violent juvenile offenders (Rand Corporation) and a study of the relationship between delinquency and learning disabilities (American Institutes of Research).

Another Institute study also is relevant to program initiative planning. The Institute had the assistance of the Council of State Governments in determining and validating a rather elaborate classification scheme for determining whether juvenile offenders are "status offenders." This scheme was included in the SPA guidelines for the block grant program and will be used in evaluating the status offender discretionary grant program.

Institute Mandates and Activities

The Act authorizes the Institute to perform four major functions:

1. To collect, prepare, and disseminate useful data regarding the treatment and control of juvenile offenders.
2. To conduct, encourage, and coordinate research and evaluation relating to any aspect of juvenile delinquency.
3. To provide training for personnel connected with the treatment and control of juvenile offenders.
4. To develop standards for the administration of juvenile justice at the Federal, State, and local levels.

What follows is a brief summary of what the Institute is doing in each area.

Information

Section 242 of the Act mandates that the Institute serve as an information bank and clearinghouse for the collection, synthesis, and dissemination of information regarding all aspects of juvenile delinquency. Section 234(7) authorizes the creation of a periodic journal for information dissemination purposes.

Juvenile Delinquency Assessment Centers.—As a major aspect of its information program, the Institute proposes to establish several Assessment Centers, each focusing on a different aspect of juvenile delinquency or juvenile justice. Each will collect, synthesize, assess, and disseminate information within a topic area. Activities will be coordinated with other LEAA units, including the National Criminal Justice Information and Statistics Service, the Office of Public Information, and the National Criminal Justice Reference Service. The Institute intends to use the Reference Service as its principal vehicle for information dissemination.

Publications Program.—The Institute also is in the process of developing an extensive publications program. This will include the development of brochures, flyers, program announcements, research monographs, and perhaps a periodic journal. The research monographs and the journal would be the major vehicles for communicating research findings.

National Juvenile Court Statistical Reporting System.—The Institute is processing a grant to the National Center for Juvenile Justice, the research arm of the National Council of Juvenile Court Judges, to support the Reporting System, which previously was conducted by the Department of Health, Education, and Welfare. The grant will include support for production of the System's annual report.

Respondents Panel.—Another grant to the National Center, also being processed, will support a panel of knowledgeable people in each State, which will be designed as a sort of early warning system on trends in juvenile justice. The panel also will collect limited amounts of information, such as arrest data on particular types of offenders.

Juvenile Court Information Systems.—The Institute has awarded a grant to the National Council of Juvenile Court Judges to conduct an assessment of electronic information systems in juvenile courts.

Research and Evaluation

Section 243 of the Act authorizes the Institute to sponsor basic research and program evaluations on any aspect of delinquency.

A major part of the basic research program is intended to provide support for the development of the major program initiatives, as discussed above. These include the NBP studies and other knowledge assessments. Other programs are described below.

Delinquent Behavior.—The Institute is providing continuing support for the Delinquency in American Society project (Simon and Puntil—Institute for Juvenile Research). This project is analyzing data gathered in a statewide Illinois sample of more than 3,000 youth (including data on the communities in which they live). The study will add to knowledge of the nature and distribution of juvenile delinquency.

Police Diversion.—This study (Klein—University of Southern California) is examining police diversion programs in the 47 independent police departments in Los Angeles County. The study's objectives are (1) to determine patterns in the development of diversion programs and how these relate to the success of the program, (2) to develop criteria for evaluating police diversion programs, (3) to determine relationships between departmental diversion and referral rates, and (4) to assess the impact of evaluation components on the form; practice, and outcome of diversion programs.

Court Processing of Juveniles.—The impact of the legal process and of formal legal sanctions on juveniles in Virginia is being examined by this project (Thomas—College of William and Mary). The study includes both juveniles who do and do not have juvenile justice system involvement. Its purpose is to test some of the hypotheses underlying labelling theory including the effects of formal processing on subsequent delinquent behavior.

Juvenile Corrections.—Continuation support is being provided to the National Assessment of Juvenile Corrections (Vinter and Sarri—the University of Michigan). This project seeks (1) to develop objective, empirical bases for assessing the relative effectiveness of correctional programs, (2) to generate systematic, comparative, and comprehensive nationwide information about major aspects of juvenile corrections, and (3) to make policy recommendations about juvenile correctional program design, structure, and purpose; resources; planning; legislative action; and statute revision.

Long-Range Planning.—The Institute recently awarded a grant (Kahn—Hudson Institute) to analyze basic social and demographic trends, to develop projections with regard to the possible impact of these trends on crime and delinquency, and to suggest the implications of those possibilities for future programming. This study is being funded in conjunction with NILECJ.

Overview.—The Institute has commissioned a "bright paper" (Zimring—University of Chicago) that will summarize what currently is known about the relationship of delinquency to various types of Federal Government programs and will identify a few substantive areas of immediate importance. The paper is being produced primarily to aid the Coordinating Council on Juvenile Justice and Delinquency Prevention, which is made up of representatives of all Federal agencies with juvenile delinquency responsibilities and which is responsible for coordinating all Federal juvenile delinquency programs. This paper will also be of great assistance to the Institute in its planning efforts.

Longitudinal Study.—The Institute has begun to plan a major longitudinal cohort study designed to sort out the contributions made by various factors toward the causation, development, and maintenance of delinquent and criminal careers. Health, education, employment, and other social factors would be studied.

The study could involve the joint efforts of several Federal agencies and hopefully would address the concerns of each. It might be designed to cover at least a 10 to 15 year period.

The Institute believes that the Federal Government should assume responsibility for sponsoring such a study—a long-term effort that should be undertaken while the nation continues to seek short-term solutions to the problems of delinquency.

System Flow Study.—Also under consideration by the Institute is a major study of the flow of youths through the juvenile justice system. Such a study would provide information on various aspects of juvenile justice processing of youths, including administrative procedures, decision-making processes, and the consequences of formal system involvement.

Effects of Alternatives to Incarceration.—A multi-year evaluation of the Massachusetts experiment in alternatives to incarceration for juveniles (Ohio—Harvard University) is being continued by the Institute. Entering its fifth year, the project is evaluating the community-based programs developed since Massachusetts closed its training schools in 1972.

Youth Services Centers.—The Institute is planning to evaluate a Youth Services Center in Philadelphia, Pa., that is aimed at diverting youths from and preventing their entry into the juvenile justice system.

Training

Section 244 of the Act mandates a major role for the Institute in training persons working in the juvenile justice area. The Office of Technology Transfer of NILECJ is doing a limited amount of work in this area: providing some training in the techniques used in Sacramento's 601 Division Program and disseminating materials concerning Philadelphia's Neighborhood Youth Resources Center and St. Louis' Providence Educational Center.

The Institute is in the process of developing a training program to address mandates in the Act. These mandates include (1) to develop a training program within the Institute; (2) to provide training through agencies or organizations at the national and regional levels; and (3) to develop technical training teams to assist the States.

There will be two types of training: fairly extensive programs to develop basic skills and short-term programs designed to expose people to new skills. Those to be trained include professional, paraprofessional and volunteer personnel including those involved in law enforcement, education, judicial functions, welfare work, and other fields.

Standards

Section 247 of the Act mandates that the Institute review existing reports, data, and standards relating to the juvenile justice system and develop recommended standards for the administration of juvenile justice at the Federal, State, and local level by September 7, 1975.

Although it will not be possible to develop standards in all areas by that date, the Institute will submit a report defining the purpose, role, scope, and implementation alternatives of the standards effort.

The Institute will coordinate its standards effort with two other on-going standards development projects—the Juvenile Justice Standards Project, conducted by the American Bar Association and the Institute of Judicial Administration in New York, and the Standards and Goals Task Force being staffed by the American Justice Institute in San Jose, Calif.

F. Office of Regional Operations

The Office of Regional Operations has two major functions, both of which involve evaluation activities. Its first major function is the administration of a substantial portion of the LEAA discretionary funds. These funds are made available to grantees, who are required to develop an acceptable evaluation plan as part of the grant application, and who may apply for and receive funds for the conduct of project or program evaluations. The Office of Regional Operations receives assistance from the Office of Evaluation in the design of evaluations, and in the review of evaluation plans, and also in the evaluation of selected projects.

The other major functions of this office is the administration of the ten regional offices of LEAA. These offices have primary responsibility for initial review of grant applications for discretionary funds, for review of the evaluation plans, and for monitoring of all grants made with discretionary funds. They also have responsibility for provision of technical assistance to state planning agencies in the area of evaluation, the review of the evaluation sections of comprehensive state plans, and are consulted on all aspects of evaluation policy as it relates to the discretionary and state planning agency programs. The regional offices have each recently filled positions for one planner-evaluator in each region, who has the prime responsibility for the evaluation functions of the regional office.

The planner-evaluator is not directly involved in program or project evaluation. The planner-evaluator primarily is involved in reviewing, assessing, monitoring and providing technical assistance to state planning agencies

and regional planning units in developing the capacities of these organizations to plan and evaluate criminal justice programs. The planner-evaluator provides the substantive review on planning/evaluation as regards state planning grant and comprehensive plan and action grant applications. In selected cases, the planner-evaluator may review evaluation components of regional office awarded discretionary grants. In most regions, the planner-evaluator coordinates the development of the regional offices and "Management-by-Objectives" submission.

Discretionary grants awarded by the several ORO program desks (Corrections/Rehabilitation, Enforcement and Indian Programs) provide for evaluation as a component of the grant. Contractors generally are employed by the grantees with ORO approving the evaluation design and the evaluator. Major program evaluation of programs implemented by ORO and/or the regions (such as Impact) are undertaken by the NILECJ. Significant evaluations will be submitted to the newly established National Criminal Justice Reference Service Evaluation Clearinghouse.

G. Office of Operations Support

The Training Division of the Office of Operations Support is engaged in the development of a one-week evaluation training course for State planning agency staffs and for regional planning unit and local government personnel. This course design is to be completed by December, 1975, and the course is to be offered beginning in the winter and spring of 1976.

III. LIST OF MAJOR LEAA PROGRAM AND PROJECT EVALUATIONS

In the paragraphs above are described current LEAA evaluation policy and the evaluation activities of the major LEAA offices. The LEAA evaluation policy has already produced several major evaluation products:

The Evaluation of the Pilot Cities Demonstration Program was completed in June, 1975. The final report from the American Institute for Research argues that the twin goals of system innovation and system improvement often conflicted. The Pilot Team approach, they argue, was successful in promoting improvements in local criminal justice operations through not an efficient approach to creating innovation in criminal justice techniques.

The Institute for Law and Social Research completed its CDS Cost Benefit Study in May, 1975. This study was designed to project the total developmental and yearly operating costs for CDS implementation in the 50 states plus D.C. and Puerto Rico through 1984, and to develop a cost/benefit methodology to support policy decisions re:

Financial implications of the CDS program at the Federal level.

Assignment of system development priorities for cost/benefit maximization.

Financial implications of states assuming responsibility of CDS operating costs once the program is fully implemented.

This study will provide major input to LEAA decisions regarding future funding strategies for the CRS program.

The first Phase I report under the National Evaluation Program (NEP) was completed and widely disseminated in August 1975. This report is entitled Operation Identification Projects: Assessment of Effectiveness and was completed by the Institute for Public Program Analysis in St. Louis, Missouri.

The Evaluation Clearinghouse in the National Institute for Law Enforcement and Criminal Justice published in June, 1975 an annotated Bibliography on Criminal Justice Evaluation. This document contains information on Evaluation-Methodology and Procedures; Environment and Facility Evaluation; Personnel and Performance Evaluation; Equipment and Technology Evaluation; and Program Evaluation.

In addition many other evaluation products will be becoming available within the very near future.

The National Level Evaluation of the Impact Cities Program continues as a major effort and is planned for completion by December 1975. Samples of evaluation designs used to assess particular projects supported by the Impact program have been compiled in a report and disseminated throughout the country. With separate components for police, courts, corrections, and target hardening techniques, the report illustrates numerous evaluation approaches which can aid planners and policy makers.

NEP Phase I assessments on a wide variety of topics will now be becoming available on a continuing basis through July, 1976. These assessments include:

1. Youth Services Bureaus, by Boston University.
2. Traditional Preventative Patrol, by University City Science Center.
3. Team Policy, by National Sheriff's Association.
4. Crime Analysis, by Foundation for Research and Development in Law Enforcement and Criminal Justice.
5. Specialized Patrol Operations, by the Institute for Human Resources Research.
6. Early Warning Robbery Reduction Projects, by Mitre Corp.
7. Juvenile Diversion, by University of Minnesota.
8. Prevention of Juvenile Delinquency, by Ohio State University.
9. Citizen Crime Reporting Programs, by Loyola University of Chicago.
10. Pretrial Release Programs, by National Center for State Courts.
11. Pretrial Screening Projects, by Bureau of Social Science Research.
12. Citizen Patrol, by the Rand Corporation.
13. Detention of Juveniles and Alternatives to Its Use by University of Chicago.
14. Physical Security Surveys, by International Training, Research, and Evaluation Council.

The list above is by no means intended to be exhaustive. It highlights only those particularly significant evaluation products which have just recently become available or which should become available in the near future. A complete listing of all the products of the LEAA evaluation program is presently available upon request from the LEAA Evaluation Clearinghouse.

STATEMENT OF RICHARD W. VELDE, ADMINISTRATOR, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Mr. VELDE. Thank you, Mr. Chairman.

I appreciate the opportunity to again appear before the subcommittee.

I do have a lengthy statement and, with your permission, sir, I would like to highlight portions of it. I would then be pleased to respond to any questions or comments that the subcommittee may have.

A rather detailed appendix to my prepared statement summarizes LEAA's current evaluation program. I would like to ask that this appendix also be included in the record. It is a portion of the material that has been submitted to the subcommittee staff in response to a series of questions which you, Mr. Chairman, directed to LEAA prior to the beginning of these hearings. LEAA's evaluation activities have been a focal point of considerable testimony before this subcommittee, we felt it appropriate to highlight this information by including it with my formal remarks.

Senator HRUSKA. It will be added to the record.

Now, does this appendix treat evaluation specifically? It is limited to that subject?

Mr. VELDE. Yes, sir.

Senator HRUSKA. It will be inserted in a suitable part of the record, and it is suggested to the staff that it should follow the copy of your statement, the text of your full statement.

You may proceed.

Mr. VELDE. Thank you, sir.

Mr. Chairman, it is encouraging that many witnesses who have testified before the subcommittee regarding the LEAA program

wish to see more LEAA resources directed to their specialized areas of interest. It is important that the subcommittee receive this perspective.

However, it is just as important to note the fact that systemwide considerations are an important—in fact, keystone thrust of the LEAA program. Without the coordinated and comprehensive effort which we continuously encourage, there is little hope that the LEAA program can have a significant impact on crime and law enforcement problems of our Nation.

Before responding to any questions which you may wish to pose, I would like to give LEAA's perspective and address certain of these issues which have been brought to the attention of the subcommittee in the course of these hearings.

The first issue I would like to address is that of evaluation. It has been suggested that provision has not been made by LEAA to satisfactorily evaluate the success of projects which are funded, and that there is no measure of the effectiveness of these projects in combating crime.

I must point out that the field of crime control is a most complex one. As the Attorney General indicated in his earlier testimony before this subcommittee, we are in a pioneering era. When LEAA was established in 1968, very little was known about the causes of crime and the factors which impacted upon the crime problem. Today we know much more.

However, it is a situation where, as our actual knowledge grows, we realize how much there is to know. The interrelationships of social and economic factors are enormously complicated. LEAA, because of the relatively limited amount of assistance it provides to State and local governments for law enforcement and criminal justice programs, cannot itself be expected to immediately cause a reduction in growth of crime.

Yet, I must disagree with those who say that significant progress is not being made in the area of evaluation. LEAA has been concerned with evaluation since its inception. This concern was given special impetus when the Congress, in enacting the Crime Control Act of 1973, placed a mandate on LEAA, through the National Institute of Law Enforcement and Criminal Justice, to evaluate its programs.

In response to this mandate, LEAA has begun implementation of far-reaching evaluation programs encompassing all program areas. The record shows that LEAA is as intensively involved in program evaluation as is any agency of government.

To assure maximum benefit from its evaluation program, LEAA has promoted the use of criminal justice evaluation information on a nationwide scale. Within the National Criminal Justice Reference Service, LEAA has established a clearinghouse of evaluation reports. Program planners and project personnel can now easily obtain examples of evaluation research for numerous types of projects. A more systematic collection of evaluation information has been compiled for major topic areas such as Youth Service Bureaus under the National Institute's national evaluation program.

It is significant, Mr. Chairman, that the Reference Service recently distributed its 1 millionth document. Over 35,000 subscribers

benefit from LEAA's efforts to disseminate not only evaluation research, but other materials relating to the program as well.

The Institute has identified several innovative criminal justice programs which are exemplary, and has encouraged their adoption by local agencies. This encouragement has taken the form of direct grant support to selected jurisdictions and the complete documentation of program operations and results for dissemination to agencies throughout the country.

The Institute has also supported development of detailed operational guidelines in selected program areas. These guidelines, called "Prescriptive Packages," are based on findings of research as well as operational experience. We have been criticized for providing too much information and guidance to the States. Here is an attempt on our part to disseminate information which can be of use to those projects managers trying to institute new programs and new functions. If we did not provide such information, we certainly would be criticized for not doing our job.

In June of 1975, LEAA published a "Compendium of Selected Criminal Justice Projects" as part of the effort to identify, evaluate, verify and transfer promising projects. The compendium, copies of which have been previously provided to the subcommittee, describes more than 650 projects involving \$200 million of LEAA funds and summarizes their reported impact upon crime and on the criminal justice system.

One-third of these projects are considered especially innovative, and have high levels of outcome evaluation. LEAA will build on this experience to develop standardized performance reporting and to refine evaluation requirements of projects which are funded.

Senator HRUSKA. Now Mr. Velde, is this compendium sometimes considered a part of the regulations and the guidelines?

Mr. VELDE. No, not this particular publication. However, it could be considered as such by some, because it is an outline of successful projects, along with references and summaries of these activities. It might be alluded to as informational material for assistance to grantees.

In November 1974, the National Institute's Office of Evaluation sponsored a conference in Atlanta which was aimed at providing assistance to State and local attendees on such questions as how to organize for evaluation, how to select evaluators, how to manage evaluations, and how to utilize evaluation results. Another conference is being planned for the spring of next year, at which time the results of evaluations of law enforcement and criminal justice programs and projects will be presented.

It can be seen from this brief recitation of LEAA's activities in the area of evaluation that we are moving forward and that significant accomplishments can be expected.

As I previously indicated, Mr. Chairman, I ask that the appendix be submitted for the committee's deliberation.

Senator HRUSKA. The request is granted.

Mr. VELDE. The next issue which I would like to discuss is of a possible 2-year reauthorization for LEAA, as opposed to the 5-year renewal proposed by the Administration. It has been suggested that a reauthorization limited to 2 years would permit LEAA time to

give its program a "hard evaluation," and then come back and seek renewed authority to fund efforts of proven success.

I would respectfully submit that not only would this proposal have the effect of changing the nature of the LEAA program to the type of short-term and limited efforts which have been criticized by Congress and others on several occasions, but would also have other adverse effects upon the objectives of the Omnibus Crime Control Act.

It should be emphasized that the Administration's proposal for renewing LEAA's authorization was submitted in compliance with Public Law 93-344, the Congressional Budget and Impoundment Control Act of 1974. That legislation has, as one of its primary objectives, the development of a long-range planning capability by the Federal Government, with program expectations stated for 5 years. Extension of the LEAA program for 5 years would be consistent with this congressional objective and would assure stability in this aspect of Federal assistance.

Senator HRUSKA. Mr. Velde, in regard to the reasoning of advocates of a 2-year authorization, that 2 years would permit LEAA to give its programs a hard evaluation, and then come back and seek renewed authority, cannot that be achieved by the Congress affording that type of oversight which each committee has over its jurisdiction so that it can be done without reference to the necessary requirement that you hold things up until you look a program over and then release more money?

Mr. VELDE. Yes, sir.

Senator HRUSKA. Is that not the way to go about it in order to allow these other considerations to apply? To what, funding by the local organizations and preserving the true nature of this on-going program instead of fragmentizing it and maybe compelling them to enter into short-term programs rather than into more fruitful longer range programs.

Mr. VELDE. Yes, sir.

Additionally, as the chairman knows extremely well, the Congress conducts an annual review of the programs as part of the appropriations process. This is another method by which Congress can keep in touch on a very current basis with program development and agency activities.

One of the key features of the current LEAA program is the comprehensive planning process through which each State reviews thoroughly its law enforcement and criminal justice programs, and sets long-range needs and priorities for resource allocation. This planning, to be effective, must necessarily have long-range implications.

The introduction of an element of uncertainty at this point, either through delay in the reauthorization of the LEAA program or through a commitment to its continuation only for a limited period of 2 years, would wreak havoc on criminal justice planning units across the country. A delay in reauthorization or a reauthorization of the program for only 2 years could easily undo the steady progress which the LEAA program has made since 1968 in stimulating sound and comprehensive criminal justice planning across the country. In addition, such an impact upon the LEAA program would have definite adverse impact in a kind of "ripple effect" upon

the general budgetary and planning processes of State and local government.

It is noteworthy that although the Federal Government has shifted the start of its fiscal year to October 1, the majority of State and local governments remain on a July 1 or earlier start for their fiscal years. At present the submission data for State annual comprehensive criminal justice plans is tentatively scheduled for August 31, 1976. This means that most States in order to produce a quality criminal justice plan for 1977 will probably begin planning in January 1976. If enactment of the LEAA reauthorization is delayed much beyond the spring of 1976, prudent State and local governments would have to enact their budgets in such a way as to exclude Federal assistance or at least plan for the Federal assistance to be used for secondary or tertiary priorities so that they can be eliminated if the Federal assistance is not forthcoming.

In this regard, Mr. Chairman, I would point out that delay or uncertainty regarding reenactment of the general revenue sharing program could have additional impact on the LEAA program. Preliminary analyses indicate that a substantial portion of funds under this program are used for public safety, including criminal justice purposes. A delay in the reenactment of the general revenue sharing program could produce an increased demand for LEAA program funds. Such an increased demand would require even more assurance that a sound criminal justice planning apparatus is in place.

A major objection to a 2-year authorization for LEAA arises from the fact that it would encourage the States to give consideration only to short-term needs. The nature of the projects supported could change significantly in form from innovative efforts expected to have permanent beneficial effects, to projects which merely continue the status quo and support normal or operational expenditures.

Jurisdictions would be hesitant to make a commitment to many significant undertakings because of the possibility of abrupt loss of support. This is particularly true, Mr. Chairman, in this time of financial difficulties for State and local governments.

Short-term programs would also encourage the purchase of equipment by localities since a tangible benefit lasting for some time would be guaranteed. Equipment purchases would also be attractive since they require no followup planning or evaluation.

Senator HRUSKA. Mr. Velde, is the expression, equipment, there a refined term for hardware?

Mr. VELDE. It is a synonym; yes, sir.

Senator HRUSKA. We have heard, during the course of this hearing, much about the excessive purchase of hardware, and I just wondered if you were consciously avoiding the use of hardware in favor of equipment.

Mr. VELDE. The term "equipment" has a broader meaning in the context of the LEAA program. "Hardware" has been used in these hearings primarily as meaning police equipment. Certainly, there are equipment needs throughout criminal justice, not just with police agencies. My present discussion refers to the purchase of equipment by any criminal justice agency, not just police.

Senator HRUSKA. Well the comment I made was an attempt at being facetious and it was not very successful.

Mr. VELLE. Your point is well taken, Mr. Chairman. The term "equipment" does apply across the board to criminal justice, not just to police hardware.

There could additionally be a chilling effect from a 2-year authorization on the raising of matching funds by localities. As you know, Mr. Chairman, the law requires, with certain exceptions, a 10-percent cash match for all LEAA-funded projects. Local officials may not wish to make a substantial investment in a program which would possibly remain in existence for a brief period, or which might be drastically changed in nature.

The short-term reauthorization of the LEAA program for the purpose of evaluating its success could, in fact, seriously damage the agency's capacity for evaluation. A 2-year reauthorization would only serve to diminish the returns from investments already made and possibly narrow the scope of future program efforts.

Several witnesses appearing before the subcommittee have recommended that LEAA's authorization be amended to require that bloc grant funds be distributed directly to cities or to city-county combinations, rather than through State planning agencies. These jurisdictions would have authority to develop their own plans, set priorities, evaluate programs, administer grants, and perform auditing and accounting functions. The remaining share of a State's allocation would continue to be distributed according to the current formula.

LEAA feels that bypassing the State criminal justice planning agencies would be detrimental to the dialog and cooperation now occurring among many cities, counties, and States. This dialog and the comprehensiveness of criminal justice planning are among the most significant achievements of the Omnibus Crime Control Act.

Without comprehensive statewide planning and priority setting, each jurisdiction would plan only for itself, with no overall objectives and goals set for the State as a whole. This would result in waste and duplication through uncorordinated efforts. It would perpetuate fragmentation and duplication in the system. Unfortunately, this is still the case in numerous instances.

Senator HRUSKA. Mr. Velde, will you suspend for a moment? We will take a 2- or 3-minute recess while I make a phone call that is considered very important.

Mr. VELDE. Yes, sir.

[A brief recess was taken.]

Senator HRUSKA. The subcommittee will come to order.

You may proceed.

Mr. VELDE. Thank you, Mr. Chairman.

I referred earlier in my testimony to the compendium of 650 selected projects. I have here a copy of that volume. As I indicated, it has been previously submitted to the subcommittee. The initial printing was 1,000 copies. These have now all been exhausted. They were exhausted within 2 or 3 weeks after first issue. The whole set is now being reprinted by the Government Printing Office. If the

previous demand is any indication, it could well be a best seller with the GPO. This is an indication of the success of the project.

Senator HRUSKA. It seems to have the proportions of a Sears Roebuck catalog. Does it have the same mail order facilities?

Mr. VELDE. The GPO edition will probably not be quite so thick as the original volume. It will have the same content, however.

Senator HRUSKA. Well, it is a very useful document. We have come across comments on it from time to time, and notwithstanding its rather formidable appearance, it is useful for purposes of references and guidance.

Mr. VELDE. Yes, sir.

The response that we received to this publication strongly suggests that it will be the first of a series. There is quite a demand for this kind of information and it can be put together relatively easily. We intend to continue such efforts.

Continuing on the subject of direct funding to localities, Mr. Chairman, it should be kept in mind that few urban areas operate their own complete criminal justice system. State and county operated court systems, State and county corrections systems, and State probation systems all impact upon law enforcement capabilities of an urban area. A funding system to bypass the State would immediately provoke an imbalance in the system.

One of the key purposes of the LEAA program is to encourage States and units of general local government to develop and adopt comprehensive law enforcement and criminal justice plans based on their evaluation of State and local problems. Local input is presently an important element of the criminal justice planning process in which every State must participate in order to qualify for LEAA funds.

The Omnibus Crime Control Act makes provision for involvement of localities in the decisionmaking process in numerous instances. I cite on pages 12 and 13 of my prepared statement some of those statutory provisions. It is inappropriate for certain jurisdictions to administer funds without regard for the rest of the criminal justice system.

We have learned from hard experience in our national discretionary grant program the high impact anticrime program, that where there is a go-it-alone attitude on the part of any component of the criminal justice system, delay and project weakness results, and long-term objectives are compromised or not achieved.

Thus, it is felt that the terms of the current law, together with the additional authorization contained in S.2212 for LEAA to fund programs in urban areas characterized by high crime, provide an adequate response to the needs of cities and other jurisdictions which are seeking direct funding.

Some of these same jurisdictions have requested that the restriction placed on the hiring of personnel with the LEAA funds, contained in section 301(d) of the omnibus Crime Control Act, be repealed. While it is understandable that in time of economic difficulty many governments are hard pressed to meet normal operating expenses, repeal of the cited limitation in an attempt to provide relief would seriously dilute the potential for innovation, modernization, and reform in criminal justice.

Repeal of the provision could lead to permanent Federal subsidies of operational budgets. This shift could then lead to federalization, domination and control, or worse, of local law enforcement.

Senator HRUSKA. Mr. Velde, you recall the origins of this bill in 1968?

Mr. VELDE. Yes, sir.

Senator HRUSKA. Do you further recall that there were some arguments and some positions taken by some members of the Senate that there be a prohibition for the use of any of these funds to pay salaries of policemen, for example?

Mr. VELDE. Yes, sir.

I do remember that, Mr. Chairman. The provision in section 301(d) is a compromise.

Senator HRUSKA. That was a compromise.

Mr. VELDE. There are certain exemptions to the general prohibition. In the case of training, demonstration, research, or evaluation programs. Salaries can be paid for a short term. But generally, operating budgets, 93 percent of which are comprised of salaries, are not to be subsidized. It is of note that the report of the House Judiciary Committee on the Omnibus Crime Control and Safe Streets Act of 1968 voiced the fear that, "He who pays the piper with it strings and requirements leading to domination and con-calls the tune." There was grave concern that long-term Federal involvement in an operational salary subsidy or support would bring trol. This was felt to be a very serious threat to our constitutional system, where the responsibility for the police function is vested in States and localities with very limited Federal involvement.

Senator HRUSKA. The same reasons you have just cited to oppose an effort to repeal section 301(d) limitations are cited by those who opposed any salary being paid under this bill. This was a compromise, and I would expect that that original situation will be brought to mind when we consider this in markup and later on on the Senate floor.

Mr. VELDE. I would certainly urge that it be so considered, Mr. Chairman.

One of the major purposes of the LEAA program is to encourage States and localities to develop new method to reduce and prevent crime and juvenile delinquency. To carry out this purpose, Congress has imposed certain specific statutory requirements for the program, including one that insures LEAA funds will not be used to supplant salaries to an unlimited extent.

Section 301(d) provides that not more than one-third of any part C grant award may be expended for compensation of police and other regular law enforcement and criminal justice personnel. A similar limitation applies to part E corrections improvement funds. The one-third salary provision was included in the act because Congress was concerned that responsibility for law enforcement not be shifted from State and local governments to the Federal Government. In addition, Federal funds might supplant State and local efforts, rather than supplement them.

In a few instances, remarks have been directed to the subcommittee, to the effect that there is excessive redtape involved in the administration of the LEAA grant program. While in some cases, regrettable

and unforeseen difficulties have arisen and caused delay to certain applicants, I believe the subcommittee will find that overall the program has been administered effectively and efficiently.

Prior testimony before the subcommittee made reference to 1,200 pages of guidelines issued by LEAA to implement a 23 page act. Such statements can be very misleading, Mr. Chairman. LEAA has implemented the statute in a manner consistent with the intent of Congress in establishing a block grant program. Much of the material contained in the guideline manuals is informational. Included are such items as reprints of the statute itself, OMB circulars, standard OMB prescribed application forms, reporting forms, fund allocation tables, and address lists of State and Federal agencies.

All this material is provided for the convenience of the user, not to impose additional burdens on applicants, as one might be led to believe. An example of the manuals issued by LEAA is the most recent edition of its "Guide for Discretionary Grant Programs." This manual, which is LEAA's largest program guideline document, has 224 pages of requirements and specifications. However, the specifications are for numerous different categories of programs. Any particular applicant would need to refer only to two or three pages under which the funds were being sought for a particular program, and to a few pages of general requirements. In addition to the guideline requirements, the manual also contains 15 informational appendices. These are not included in the main body of the guideline text.

It should be noted that some of the information provided in LEAA guideline manuals relate not to requirements arising out of LEAA's legislation, but to other Federal statutes which have been passed to deal with crucial issues of national concern. Examples of such statutes which may be considered by some critics of LEAA to be red-tape, but over which we have no control, are the National Environmental Policy Act, the Clean Air Act, the Federal Water Pollution Control Act, the National Historic Preservation Act, the Uniform Relocation Assistance and Real Property Acquisition Act, and, recently enacted by Congress, the Safe Drinking Water Act. Thus, it is unfair to single out LEAA as the cause for many requirements being imposed on those seeking assistance.

As you know, Mr. Chairman, provisions have been added to LEAA's enabling legislation which help assure swift action. By law, LEAA must approve or disapprove State comprehensive plans within 90 days of submission. State planning agencies must act on subgrant applications within 90 days of their receipt. LEAA has adopted a similar 90-day rule for consideration of any discretionary grant applications. I might add, Mr. Chairman, that there have been well over 100,000 grants made during the course of the LEAA program, with the number of applicants far exceeding that figure.

With regard to the application forms themselves, LEAA uses the standard form for Federal grant programs prescribed by the OMB in its discretionary grant program. This assures uniformity for all such applicants.

Finally in this regard, Mr. Chairman, it should be pointed out that the LEAA program is one essentially administered by State and local governments. These jurisdictions all may have their own requirements which affect the management of the program, perhaps

causing delay to applicants for funds. If inefficient management techniques are the cause of such problems. LEAA may be able to provide the technical assistance necessary to upgrade capabilities and to initiate effective techniques. In fact, we have taken action in many such instances. However, it would be inappropriate for LEAA to otherwise dictate to these jurisdictions the nature of their own administrative procedures.

With respect to courts, Mr. Chairman, representatives of State court systems appearing before the subcommittee have taken issue with LEAA's estimate of the percentage of funds which goes for court programs. You will recall, Mr. Chairman, that we have submitted information to the subcommittee in which we have indicated that court projects receive in the neighborhood of 16 percent of LEAA program funds. Others, however, have voiced the opinion that the actual courts funding level is 6 to 7 percent or lower, and have been critical of the fact that LEAA includes in the total items such as defense and prosecution projects.

It is extremely difficult to credit LEAA funds to exclusive program categories such as police, courts, and corrections. This is particularly true since as much as 40 percent of all of LEAA grants benefit multiple components of the criminal justice system. Criminal justice training academies receiving LEAA support are one example of this multicomponent thrust. One week, courses may be given to prosecutors, 1 week to police officers, 1 week to probation officers, and another week to judicial representatives.

Another example is the funding provided to support criminal history information systems. Such systems are used by nearly all elements of the criminal justice system, including police, courts, and corrections agencies. Realistically, there is no accurate way to assign a specific amount of these dollars to particular program categories.

Another major difficulty in this regard is one of definition. There is a bona fide difference of opinion as to what actually is a court program. This difference flows largely from the fact that legislation which defines the structure, responsibility, and jurisdiction of court systems differs widely from State to State. Certain court responsibilities defined by State law may be included in one State while not included in another.

Some projects to assist prosecution, defense, and probation functions have been characterized by LEAA as court projects. Advocates of increased funding for the courts feel, however, that only those projects which directly benefit court operations should be included in the definition, with other efforts being listed separately, perhaps as a new category.

LEAA is now attempting to resolve these differences and provide a discrete apportionment of all funding for court projects under definitions acceptable to all interested parties. A special task force of judicial leaders and technicians has been commissioned to develop acceptable working definitions for categorizing these projects, apply these definitions to LEAA project expenditure data, and determine the percentage of LEAA funds devoted to court projects.

I might add, Mr. Chairman, that testimony received from several witnesses representing different organizations voiced the complaint that there is not enough LEAA money to go around. I am certainly

not suggesting in this forum, Mr. Chairman, that LEAA should pick and choose sides or appear as an adversary to any particular component of the criminal justice system. That is not LEAA's role. We are here to do what we can to assist all of the components, including courts, corrections, police, prosecution, defense, community based corrections, drug abuse prevention, and others. We try to assist all of these components to analyze their problems and shortcomings and allocate resources according to a structure of priorities.

We certainly sympathize with the courts. We are doing what we can to assist in their reform and improvement. But, as a witness pointed out this morning, there are similar problems facing corrections, some of them chronic, lasting over decades. There are also problems in the area of police resources. We are sympathetic to all of these needs and do what we can within the limits of our resources.

Mr. Chairman, in the last few pages of my prepared testimony I have referred to certain charges and allegations that have been presented to the subcommittee. With your permission, I would just like to submit them for the record at this time, and respond to any questions or comments that you might have.

Senator HRUSKA. Very well.

Mr. Velde, the LEAA has been criticized because of the high turnover rate of its political leadership and there has been a criticism, further, that the LEAA has become, or at least had been at one time, paralyzed because of turnover and because of personnel matters. Are these charges true? Are they justified?

Mr. VELDE. Mr. Chairman, one only needs to read the morning paper to realize that turnover is a fact of political and bureaucratic life. Certainly, LEAA has had its share of it. I came with the agency in February 1969, as a political appointee. There are few career employees in the agency that have that tenure. Thus I can speak with an almost unique perspective in this regard.

I have had the privilege of serving nine Attorneys General, including those who were acting in that capacity. I have had the privilege of dealing with well over 150 Governors and countless mayors. There have been over 250 State planning agency directors since I have been with the agency.

I might note that a U.S. Senator who took office in January 1969 probably now has considerable seniority in the Senate. This is a further indication of my point that turnover is a fact of political life; there is no question about it.

Senator HRUSKA. Are you suggesting that it applies even to State and local public officials?

Mr. VELDE. Yes, sir; that is true. Looking at the nature of the LEAA program, however, it must be realized that policy is essentially set by the Agency's enabling legislation. There is certain flexibility for the political leadership in administering these programs and in setting policy, but our basic guidance comes from the enabling legislation that Congress prescribed. That is the mandate to which all administrators must adhere in order to faithfully execute the law which it is their responsibility to administer.

Although there has been turnover, there has been program continuity. There has been forward movement. There has been a successful record of achievement, no matter what the turnover has been, to which the Agency can refer. This is stated in terms of our efforts to fulfill the congressional mandates which have been imposed upon us.

I am aware of charges being made that the Agency has become paralyzed. Frankly, Mr. Chairman, I would tend to discount these charges. Presently LEAA money is going to the States faster than it has ever been distributed before. Our turnaround time on processing of grants is reduced considerably from what it was in prior years.

If the extent of interest in being employed by LEAA is any indication of the viability of LEAA, it is of note that we are literally being swamped by applications from individuals who want to work for the Agency. This may be an indication of the very tight job market, but for every vacancy that we have, we have hundreds of applicants. I would hardly say that this represents any bureaucratic paralysis in the LEAA.

Senator HRUSKA. One of the bills we are holding hearings on, S. 2212, redefines the Attorney General's oversight over the Agency. What comment have you on that? What effect might follow from that?

Mr. VELDE. Mr. Chairman, as you know, LEAA does occupy a unique relationship in the Department of Justice. Under the terms of current law, LEAA is under the general authority of the Attorney General, as opposed to day-to-day supervision. The proposal in S. 2212 really does not change this basic relationship.

The language contained in the bill actually only clarifies and amplifies, but it does not seek to place LEAA under the direct operational supervision of the Attorney General, as is the case with some of the other functions of the Department of Justice.

There have been problems in the past as far as its relationship between LEAA and the Department have been concerned. These have been primarily of an administrative nature. Our relationships with the Attorney General and the Deputy Attorney General have been constructive and sound. We have had no significant difficulties through the years in dealing with the provisions of the law as they now exist. The terms of S. 2212 actually codify and define the relationship which already exists.

Senator HRUSKA. In your prepared statement, you refer to the LEAA guidelines and the 1,200 pages thereof. Staff tells me that you have prepared a breakdown of those pages. Have you got it in written form, so we can incorporate it in the record?

Mr. VELDE. Yes, sir. I would be pleased to submit it for the record.

[The material referred to follows:]

LEAA GUIDELINE REQUIREMENTS

LEAA has the following Guidelines implementing the Crime Control Act and the Juvenile Justice and Delinquency Prevention Act. The page number references in the first column cover all LEAA, other Federal statutes and miscellaneous helpful material contained in Guideline documents.

The second column covers LEAA requirements to implement the Acts and does not include material printed with the Guidelines for convenience of the applicant (e.g., application and report forms, addresses, statutes, OMB Circ-

lars, GSA Circulars, etc.), material which implements other Federal statutory requirements (e.g., Civil Rights, Environmental Policy Act, Historic Site Act, Relocation Act, etc.), or manual material compiled by LEAA to provide helpful information in certain areas (e.g., Grant Procurement Handbook). This latter column contains the "real" Guideline material which is most relevant to LEAA grantees in determining LEAA's Federal requirements for program participation.

	Total document	Guideline pages
Part B.....	96	34
Part C block/part E block.....	159	71
Part C and E discretionary (of which 179 pages are program description). Note that this covers all programming even though an applicant would only use a small number of pages applicable to his program.....	310	219
National Institute (program plan).....	13	13
LEEP (including graduate research fellowship program, graduate consortium and other manpower programs).....	117	60
Financial (governing all programs).....	263	129
Systems (includes draft CDS guidelines).....	47	10
Juvenile Delinquency (above and beyond coverage provided in block grant and DF guidelines which merge coverage with pts. C and E).....	16	16
Total.....	1,021	552

Mr. VELDE. Regarding this tabulation, Mr. Chairman, it is of note that our part B regulations and guidelines, which encompass the entire planning mechanism for the agency's program, totals 34 pages. Our part C and our part E block grant guidelines total 71 pages. These two sets of regulations represent about 75 percent of LEAA's total funding. Thus there are a little over 100 pages of actual guideline material for a program involving many hundreds of millions of dollars. This issue is further discussed in my prepared testimony.

Senator HRUSKA. In the latest amendments; that is, in 1970, there was a priority emphasis on antiorganized crime programs. One of those amendments required that there is implementation of this authority and that you do work and do concentrate somewhat on an interstate organized crime index. What is the status of that?

Mr. VELDE. Mr. Chairman, section 301(b)(5), gives LEAA a specific mandate to assist the States in development of organized crime programs. With respect to our overall organized crime program, our assistance takes two forms; first, in the area of block grants, and second, our national discretionary grant programs.

We have commissioned a study of our overall organized crime program. As you know, Mr. Chairman, we recently sponsored a National Conference on Organized Crime here in Washington. We were privileged to have you address that meeting. This material for the study has now been collected. It does summarize our overall organized crime program. I would be pleased to submit it for the record to the subcommittee.

Senator HRUSKA. It will be incorporated in the record at the conclusion of your testimony. [See p. 454.]

In studying our national discretionary program, we took a hard look at approximately 100 projects involving about \$44 million worth of LEAA funds. This is about half of the total amount that we have funded. We found that those 100 projects were able to curtail organized crime activities which would have meant revenues to organized

crime of about \$1.5 billion. This is a rather substantial return on the investment we made.

However, it should be considered that organized crime's annual take is reliably estimated to be somewhere between \$35 and \$50 billion a year. Although there has been a very significant return on these LEAA dollars that have been invested for antiorganized crime activities, there still is a long way to go. This comment is appropriate regarding the entire LEAA program.

With respect to the interstate organized crime index, the law specifically authorizes LEAA to assist States in the development of organized crime information systems. We have had this authority since 1968. Pursuant to that authority we have been supporting since 1971 the development of an automated interstate organized crime information network.

I emphasize the term "information," as opposed to "intelligence." This system does not include reports of informants or field investigative reports. It instead contains criminal history record information and other information that is in the public domain, such as newspaper clippings and reports of congressional inquiries and investigations.

We have supported the development of this system since 1971. It is now ready to become fully operational. We have not gone ahead, however, because of the uncertainty that now exists regarding congressional oversight into police intelligence systems at both the Federal level and the State and local level. Even though LEAA has the authority and a specific mandate, the system is now being held in abeyance pending the outcome of current congressional oversight, as well as privacy and security legislation which is being studied.

Senator HRUSKA. To whom is that index available? Who makes use of it?

Mr. VELDE. A confederation of more than 200 State and local criminal justice intelligence agencies make up an organization called LEIU, the Law Enforcement Intelligence Unit. It is this unit that is using the index and maintaining it.

I understand, Mr. Chairman, that this unit has testified before both House and Senate Judiciary Committees, in connection with hearings on the privacy and security legislation.

Senator HRUSKA. That is right.

Now, there have been fluctuations in uniform crime reports and trends. How much blame should LEAA get for those fluctuations in trends, either upward or downward?

Mr. VELDE. Throughout the history of the LEAA program, the Agency could be characterized as a convenient scapegoat for those who, for whatever reason, are interested in attacking the criminal justice system and its inability to mount an effective response to increases in reported crime. I have with me a chart which reflects trends in serious reported crime, as compiled by the FBI's "Uniform Crime Report," by quarters over the past 5 years, beginning in the first quarter of 1970.

You can see that there has been quite a fluctuation in the reported crime rate over the past 5 years, with some upward and downward

trends reflected during that period. For example, during most of 1972, there was a significant downtrend. Nationally, there was a 6 percent decrease in crime over the preceding year as reported by the uniform crime reports. In the first quarter this year, there was an 18 percent increase reported nationally. In the second quarter of this year, there was only an 8 percent increase. Overall the average increase in the first 6 months was 13 percent.

There is certainly no correlation, direct or indirect, between the flow of LEAA funds, or the amount of our program activity, and the trends reflected in this chart. Nobody claimed that LEAA was a success in 1972, simply because the "Uniform Crime Report" figures decreased 6 percent. LEAA did not seek to take credit for that downturn in reported crime. There are numerous other factors which affect crime besides the amount of LEAA funding. As you know, Mr. Chairman, funds account for only about 5.5 percent of the resources that State and local governments spend on criminal justice.

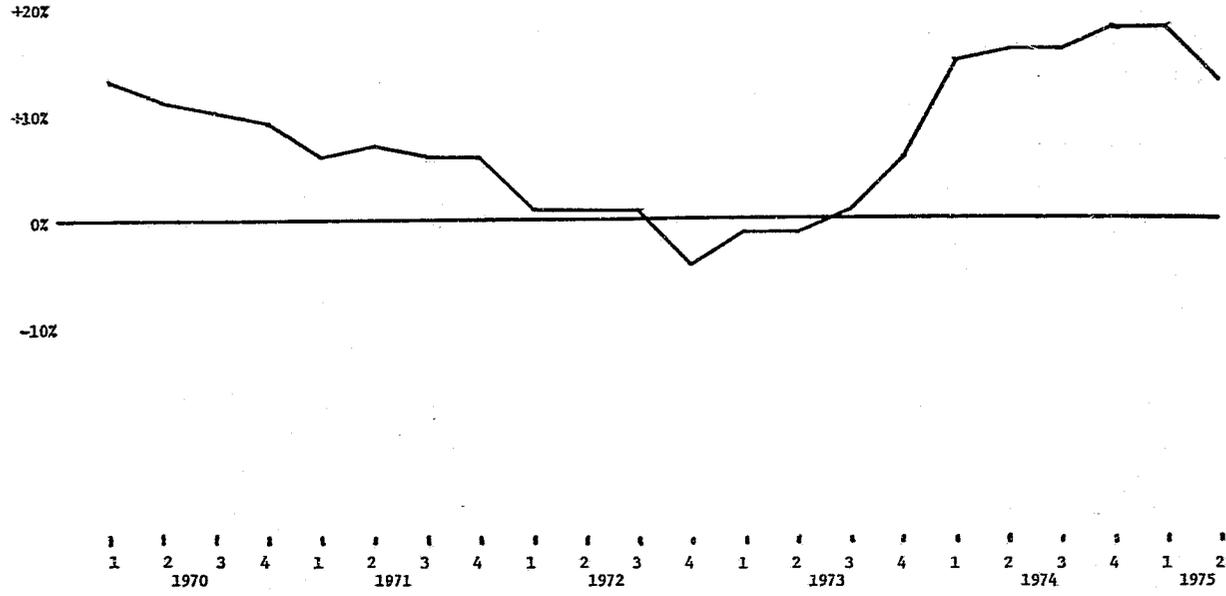
The purpose of our program is to assist States in improving their criminal justice systems. In some cases, this may result in increases in reported crime. For example, LEAA has a major investment in improving the national crime reporting system and automating upgrading setting up State statistical agencies to engage in much more comprehensive crime reporting activities.

One of the results of this effort has been increased reporting of crime. I would like to submit the chart I described for the Committee's record in order to show that it is not fair to directly attribute the fluctuations in the uniform crime reporting system to the amount of LEAA funds, or the amount of program activity that we support.

Senator HRUSKA. The exhibit will be received, and if staff can overcome technical problems, it will be incorporated into the record, in one fashion or another.

[The material referred to follows:]

Percent Change in United States Index Crime Over Previous Year, for First Three Months, First Six Months, First Nine Months, and Annual, 1970 Through First Six Months of 1975



Senator HRUSKA. Who furnishes the statistics for those uniform reports?

Mr. VELDE. It is a voluntary reporting system, with about 3000 police agencies contributing, out of the Nation's approximately 20,000 agencies.

Senator HRUSKA. And what agency is the collecting agency?

Mr. VELDE. The Federal Bureau of Investigation, at the national level. At the State and local level, about 19 States currently have the system formalized to the extent that local police departments report to a State agency, and the State agency in turn reports, on a monthly basis, to the FBI. This is a development which LEAA has supported with considerable amounts of our discretionary funds.

Senator HRUSKA. In 1974 Congress enacted the Juvenile Justice and Delinquency Prevention Act. S. 2212 makes attempts to modify certain provisions of that act. Has there been enough experience with it to warrant making recommendations in that regard, as early as 1975?

Mr. VELDE. Mr. Chairman, I think that is an extremely fair comment and criticism of that provision in the administration's bill. As you know, separate oversight into this matter is planned by other congressional committees. The Judiciary Subcommittee to Investigate Juvenile Delinquency, chaired by Senator Bayh, is expected to take such action in the Senate. This legislative recommendation was based not so much on experience with the administration of the program, but on the fact of cuts in the appropriations level for other LEAA programs. The maintenance of effort provision is based on the amount of LEAA parts C and E funds devoted in fiscal 1972 to juvenile delinquency programs. The 1974 law requires that that same amount of LEAA funds should be spent from parts C and E for juvenile delinquency in future fiscal years as was spent in 1972.

Although we are sympathetic with the objective of devoting a substantial amount of resources to juvenile delinquency programs, there is need for flexibility in determining from year to year what the most important priorities should be. This is especially true when the amount of parts C and E LEAA funds are reduced from the levels of preceding years, as is now the case. Our recommendation is thus not based on experience, but rather on the realities of reduced funding levels and on the need for flexibility.

Senator HRUSKA. The bill also empowers the director of the National Institute of Law Enforcement and Criminal Justice to broaden its authority and to look into the civil side of the courts, as well as to engage in lines of research and interest to the Federal criminal justice system. Would you furnish for the record your comment on that new aspect and what your ideas on it are?

Mr. VELDE. As the Attorney General indicated in his statement to the subcommittee on October 2, 1975, the administration has proposed that the national institute "retain its emphasis on State and local law enforcement and criminal justice, but be permitted to fund appropriate civil justice and Federal criminal justice projects as well." It is expected that the latter activities might include evaluation of the new Federal Speedy Trial Act, further analysis of victimization data and other similar issues.

Consistent with its proposed new authority to support research in civil justice, the Institute would seek to explore the administration

and operation of the civil system in order to recommend methods for improving and accelerating civil justice processes. In the first year, support might be focused on research into several currently critical issues emerging in civil jurisprudence. For example, in an effort to reduce the staggering delay caused by enormous backlogs of ordinarily litigated matters, many jurisdictions are experimenting with various forms of "no-fault" automobile insurance and significantly eased grounds for obtaining divorce. Other potential methods for reducing the delay between an alleged civil grievance and its redress involves changing not the substantive law as in "no-fault" insurance and divorce, but rather, dramatically altering the method in which disputes are actually resolved. Rather than requiring a full-fledged time-consuming adjudication in a civil court of all such disputes, speedier procedures such as arbitration and mediation are being proposed and seriously considered in many jurisdictions. Whether any of the currently popular "reforms" actually will achieve their desired ends in terms of streamlining the civil justice system is a question which should be explored.

Another potential area for Institute research involves the provision of ordinary legal services to middle-income citizens. It is becoming increasingly recognized in legal circles that middle-income citizens are effectively and increasingly being priced out of the legal market, leaving only the subsidized very poor and the wealthy with access to necessary services. Whether the answers to the problem lie in such remedies as prepaid legal services or other forms of legal insurance or in increased price competition caused by effective implementation of the Supreme Court's *Goldfarb* decision is a question which might effectively be addressed by the Institute.

We believe, Mr. Chairman, that the civil justice system and the public will benefit from research under the broadened authority proposed in S. 2212.

Senator HIRSKA. There is a vote in progress in the Senate.

There will be additional questions which will be submitted to you for your written reply to go into the record at this point.

Unless you have a concluding statement to make, we will adjourn.

Mr. VELDE. Just one final comment, Mr. Chairman. I would not want to conclude my testimony without an expression of deep gratitude and thanks to this subcommittee for the support and encouragement that has been given LEAA and its program throughout the years. Obviously, any program that is complex and is controversial in nature, as is this one, and which deals in a subject matter enmeshed with the central political and social issues of our times, is likely to have critics and will receive many proposals for improvement of the program.

I want to thank the subcommittee for its diligent support of our program. We would certainly hope that we will enjoy your continued trust and confidence in the future.

Thank you, Mr. Chairman.

Senator HIRSKA. The subcommittee and the Judiciary Committee have always entertained any suggestions or ideas on your program. They have not always granted your requests, as you well know, and do not intend to, and do not propose to, but whenever they make sense, we try to effect them.

The reporter will put in the record at this point questions 12, 13, 14, and 15 of my memorandum, so that Mr. Velde will have a reference point for inserting proper replies as he sees fit.

[The material referred to follows:]

Senator HRUSKA. Question 12: The subcommittee has received testimony regarding the salary limitation provisions of the Omnibus Crime Control Act with the suggestion being that it should be modified or eliminated. Congress has reviewed the question twice since the original provision was put in the act in 1968 and has left it intact. Do you agree with this decision.

Mr. VELDE. Yes I do.

One of the major purposes of the LEAA program is to encourage State and localities to develop new methods to reduce and prevent crime and juvenile delinquency. To carry out this purpose, Congress has imposed certain specific statutory requirements in the Crime Control Act to insure that LEAA funds will not be used to support salaries to an unlimited amount, to supplant State and local efforts instead of supplement them, and to continue indefinitely the support of ongoing efforts.

Section 301(d) provides that not more than one-third on the part C grant awarded to a State may be expended for the compensation of police and other regular law enforcement and criminal justice personnel. The amount of Federal funds expended for regular law enforcement and criminal justice personnel may not exceed the amount of State or local funds made available to increase such compensation. This means that only one-half of the cost of any salary increases may be paid for from LEAA part C funds. The one-third salary limitation does not apply to the compensation of personnel for time engaged in conducting or undergoing training programs or in research development, demonstration, or other short-term project, since these types of programs do not affect the concern and purpose of the clause that federally funded police efforts at the State or local level can lead to the equivalent of a Federal police force.

LEAA has applied the one-third limitation to wages and salaries of law enforcement and criminal justice system operation grantees or subgrantee employees. The limitation is not applied to the salaries of personnel whose primary responsibility is to provide assistance, maintenance, or auxiliary services or administrative support to the regular operational components of law enforcement and criminal justice agencies.

The one-third salary provision was included in the Crime Control Act because the Congress was concerned that responsibility for law enforcement not be shifted from State and local governments to the Federal Government. The LEAA program is supposed to encourage States and localities to do things in the criminal justice field that have not been done previously. If funds were used to support salaries to an unlimited extent, innovation would be impossible. In addition, Federal funds may not supplant State and local efforts, instead of supplementing them.

Section 303(a) (11) requires that a State establish procedures to assure that Federal funds made available to the State will be used not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made avail-

able for law enforcement and criminal justice. This provision is to insure that Federal funds will be a supplement to and not a substitute for funds normally spent by States and localities for law enforcement and criminal justice. By supplementing State and local funds, the development of innovative methods, is enhanced.

Senator HRUSKA. Question 13. S. 2212 contains authority to establish a new program devoted to high crime areas. This provision is based on your experience with your impact cities discretionary program. Why do you need new authority to do this since you have already created your impact cities program under existing law?

Mr. VELDE. The proposed new high impact authority would address several important needs. As the President stated in his message to Congress on crime, violent street crime in heavily populated urban areas has reached critical proportions. LEAA sought to respond to this problem in 1972 by instituting the high impact program within the Agency's discretionary fund priorities. That program, which was designed as a 3-year effort in eight cities, produced valuable results. The preliminary evaluation findings indicate that significant results were achieved through many of the projects developed in the high impact cities. By codifying the high impact authority, we can assure that the lessons learned and experience gained through the original effort will be carried forward.

Of particular significance in S. 2212 is the provision for an additional authorization of \$250 million over 5 years for the impact program. This additional funding will permit the implementation of a soundly financed high impact program without diverting part C discretionary funds from the broad range of criminal justice improvement projects which are not necessarily concentrated in large urban areas. It would also provide a measure of assurance to the citizens and public officials of high-crime urban areas that high impact efforts will be provided Federal support for a long enough period to permit effective planning and implementation.

Senator HRUSKA. Question 14. Several groups have testified that their representation on state planning agency supervisory boards was not adequate. What is a good balance or is there a problem here?

Mr. VELDE. In complying with statutory requirements—the Crime Control Act of 1973, and the Juvenile Justice and Delinquency Prevention Act of 1974—the trend within the LEAA program has been toward larger State planning agency supervisory boards.

The Act requires that SPA's and RPU's shall "within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies including agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizens, professional, and community organizations, including organizations directly related to delinquency prevention."

LEAA's State Planning Agency Grants Guideline Manual implements the legislative requirements by stating that a State planning agency must have a supervisory board which must be representative in nature. The manual sets out the legislative language and, in general, requires "balanced representation" both geographically and between State and local government as follows:

(a) Representation of State law enforcement and criminal justice agencies, including agencies directly related to the prevention and control of juvenile delinquency;

(b) Representation of units of general local government by elected policymaking or executive officials;

(c) Representation of law enforcement officials or administrators from local units of government;

(d) Representation of each major law enforcement function—police, corrections, court systems and juvenile justice systems—plus, where appropriate, representation identified with the act's special emphasis areas, that is, organized crime and riots and civil disorders;

(e) Representation of public [governmental] agencies in the State maintaining programs to reduce and control crime, whether or not functioning primarily as law enforcement agencies;

(f) Representation that offers reasonable geographical and urban-rural balance and regard for the incidence of crime and the distribution and concentration of law enforcement services in the State;

(g) Representation, as between State law enforcement agencies, on the one hand, and local units of government and local law enforcement agencies, on the other, that approximates proportionate representation of State and local interests;

(h) Representation of citizen, professional and community organizations, including organizations directly related to delinquency prevention.

The guideline manual states that in "determining conformity with representative character, it is possible for one board member to be representative of more than one element of interest."

For regional planning units the manual adds that the supervisory boards must be comprised of a majority of local elected officials. It adds that "where possible, preference should be given to executive and legislative officials of general purpose government." The manual also exempts from the representation requirement any element for which the governments comprising regional planning units do have significant responsibility. The regional planning units are also exempt from the State agency representation and State/local balance requirements.

The representation requirements tend to produce rather large supervisory boards. The total number of individuals can sometimes be reduced by having one person meet a number of the representation interests. The diversity of the board's membership tend to give vent to views of all groups affected by the activities of the LEAA program, but also tend to extend the administrative duties of the State planning staff relative to support and coordination of the board's efforts.

Despite this disadvantage, however, the variety of represented interests does prevent monopoly control by any one segment of the criminal justice system. If utilized effectively by a State and with appropriate support from the planning agency staff, the supervisory board can perform its policy determination and resource allocation functions efficiently and effectively.

With your permission, Mr. Chairman, I am submitting for the record a State-by-State listing which shows the broad representation of SPA supervisory board membership.

Senator HRUSKA. Question 15. An area of increasing concern is the whole matter of victim-witness participation in the criminal justice process. What is LEAA doing to promote this type of citizen participation in law enforcement?

Mr. VELDE. LEAA gave formal recognition to the need for improved criminal justice service to citizens and for greater citizen participation in criminal justice improvement with the creation in 1974 of a Citizens' Initiative Office. There are two major objectives of this effort. The first is to serve the citizen's needs in all aspects of the criminal justice process. The second is to involve the citizen actively in the criminal justice process. The two objectives are closely related because one way to increase citizen participation is to make the system more responsive to citizen needs.

The program activities of the new Office include service to crime victims and witnesses—including counseling, protection, adequate compensation, efficient scheduling, and notification procedures, et cetera—and service to jurors—including counseling, more efficient use of juror time, and improved courthouse facilities.

In June 1974, LEAA contacted the top officials in 3,000 cities and counties inviting the submission of concept papers dealing with one or more aspects of the project theme: Justice for victims, witnesses, and jurors. Approximately \$3 million in LEAA discretionary funds were set aside to implement the selected project ideas.

One of the most innovative programs funded to date is the Boston urban court project, supported by \$412,774 in LEAA funds. It is a comprehensive program with both short-term and long-term operational goals. BUCP is designed to revitalize a part of the Boston district court system and restore citizen faith in it through attentiveness to the needs of victims, the community, and the offender through the inclusion of each in participatory roles traditionally reserved for criminal justice practitioners. BUCP is pursuing new avenues of service delivery, participation, dispute settlement and disposition with active encouragement of all organized segments of the professional criminal justice system—judge, prosecutor, defender, probation department, parole agency, police, and planner alike.

The Boston urban court program has three components: The mediation project, the disposition panel, and the victims services project.

The mediation project is making comparative and longitudinal evaluations to explore how potentially criminal disputes can be identified at a variety of criminal justice system (CJS) intake points, screened out of the formal CJS, and fundamentally resolved through the participation of trained community mediators and the disputants themselves. The objectives are to:

- (1) Do "justice" in the eyes of the disputants.
- (2) Prevent the recurrence of future, and perhaps more serious, disputes by addressing the underlying problems.
- (3) Build good will in the community toward the CJS.
- (4) Eliminate from the already burgeoning caseload of the CJS those cases, though technically criminal, which are personal in nature and can be appropriately mediated outside the formal channels.

The disposition panel project is institutionalizing a procedure in which a panel, supported by a full-time project staff and consisting

of probation officers, a psychological consultant, specifically trained community members, and representatives of local social service agencies, takes nondrug cases referred to it by the judge, performs preliminary background evaluation on the offender, conducts "assessment" and "sentencing recommendation" hearings at which, if desirable, the offender and the victim may participate, and then prepares a written report, including psychological and evaluative test scores, recommending a disposition. It is envisioned that the involvement of community panel members, offenders, and victims—where feasible—will:

(1) Have a positive effect upon probation officers, better enabling them to meet recently articulated standards for presentence investigation and use of community resources, condition them to perform higher quality work—a comprehensive directory of social resources available will be developed, maintained, and provided to all probation officers.

(2) Enable judges to make more reasonable and effective dispositions.

(3) Educate community panel members to the inherent difficulties in the sentencing process as well as tap them to expand the base of dispositional resources within the community.

(4) Enable the testing of the hypothesis that the offender will better understand the human consequences of his deed and accept a disposition as legitimate if he participates with community people and perhaps even his victim in developing that sentence; and that this will contribute to his rehabilitation.

(5) Permit an exploration of the restitution concept under controlled circumstances with probation department followup, thereby filling a critical research gap.

The victim services project expands upon the prevailing notion that victims of crime receive little relief from the criminal justice system for their physical, economic, and psychological damage and losses. In terms of the overall project design, this is fundamental to both the mediation project and the disposition panel in that it provides a new testable variable thereby fixing an optimal mix of deliverable services. An initial outcome of this project will be a data base study on victims, their losses, and their need for additional resources. Dr. Stephen Schafer, a well-known victimologist will conduct the study. The effect on the victim's participation in the prosecution of his case will be measured, as will victim offender perceptions and their effect upon a restitution program.

We believe that the Boston urban court program is an outstanding example of close cooperation and coordination between the various elements of the criminal justice system. It has the potential for lasting improvements in the system and significantly increased service to the citizenry. Through this and other innovative victim-witness projects around the country, LEAA is working toward the development of model programs which will effectively respond to the need for greater citizen participation in criminal justice activities.

SPA SUPERVISORY BOARD COMPOSITION

	Region I					New Hampshire	Maine
	Massachusetts	Rhode Island	Connecticut	Vermont			
1. Membership:							
a. Filled.....	41	22	22	20	32	27	
b. Vacant.....	0	4	6	0	0	3	
2. CJ representation:							
a. Police.....	7	3	4	3	11	8	
b. Courts Representation:							
1. Courts Administration.....	3	1	0	1	0	1	
2. Public defender Representation.....	3	1	1	3	1	1	
3. Prosecutors Representation.....	12	1	1	2	1	4	
4. Judiciary Representation.....	0	1	4	0	3	11	
c. Corrections.....	3	1	2	1	5	3	
d. Juvenile Justice representation.....	4	4	2	2	6	3	
e. Public agencies with programs to reduce and control crime.....	27	4	12	9	15	10	
3. Community Representation:							
a. Citizens professional and community organization.....	4	4	6	6	11	5	
4. General government:							
a. Geography:							
1. Urban.....	36	17	10	6	8	16	
2. Rural.....	5	5	12	14	22	11	
b. Level of government:							
1. State.....	15	14	11	5	6	9	
2. Local.....	26	12	5	7	13	18	
c. Elected officials of general local government.....	7	1	1	4	7	2	

	Region II			
	New York	New Jersey	Virgin Islands	Puerto Rico
1. Membership:				
a. Filled.....	26	21	10	11
b. Vacant.....	3	0	1	5
2. CJ representation:				
a. Police.....	6	4	1	1
b. Courts representation:				
1. Courts administration.....	1	1	0	2
2. Public defender representation.....	1	1	0	0
3. Prosecutors representation.....	3	2	1	2
4. Judiciary representation.....	0	1	1	9
c. Corrections.....	1	2	1	1
d. Juvenile Justice representation.....	2	5	1	1
e. Public agencies with programs to reduce and control crime.....	7	2	6	5
3. Community representation:				
a. Citizens professional and community organization.....		2	2	3
4. General government:				
a. Geography:				
1. Urban.....		15	1	N/A
2. Rural.....		6	3	N/A
b. Level of government:				
1. State.....	7	9	N/A	N/A
2. Local.....	12	8	N/A	N/A
c. Elected officials of general local government.....		3	N/A	N/A

See footnote at end of table.

SPA SUPERVISORY BOARD COMPOSITION ¹—Continued

	Region III						District of Columbia
	Penn- sylvania	Maryland	West Virginia	Virginia	Delaware		
1. Membership:							
a. Filled.....	16	30	32	18	44		29
b. Vacant.....	0	0	0	0	0		
2. CJ representation:							
a. Police.....	2	4	5	3	7		1
b. Courts representation:							
1. Courts administration.....	0	0	0	0	2		1
2. Public defender representation.....	0	2	0	0	1		1
3. Prosecutors representation.....	1	4	1	2	3		2
4. Judiciary representation.....	2	4	2	2	2		3
c. Corrections.....	2	3	8	3	3		1
d. Juvenile justice representation.....	3	5	6	2	6		5
e. Public agencies with programs to reduce and control crime.....	2	13	17	8	17		7
3. Community representation:							
a. Citizens professional and community organization.....	4	5	5	3	12		11
4. General government:							
a. Geography:							
1. Urban.....	7		15	3	N/A		29
2. Rural.....	9		17	7	N/A		N/A
b. Level of government:							
1. State.....	8	13	16	12	13		16
2. Local.....	4	12	18	4	7		N/A
c. Elected officials of general local government.....	2	9	6	3	6		2

	Region IV							
	Tennes- see	Florida	South Carolina	Alabama	Kentucky	Missis- sippi	North Carolina	Georgia
1. Membership:								
a. Filled.....	21	35	25	49	61	21	28	37
b. Vacant.....	0	0	0	0	0	0	0	0
2. CJ representation:								
a. Police.....	5	7	6	11	12	4	7	7
b. Courts representation:								
1. Courts administration.....	0	0	1	0	2	0	1	0
2. Public defender representation.....	0	1	0	0	2	0	1	2
3. Prosecutors representation.....	2	2	2	7	5	2	2	2
4. Judiciary representation.....	4	4	1	5	16	1	4	4
c. Corrections.....	2	5	3	7	6	4	4	4
d. Juvenile justice representation.....	1	5	8	6	18	3	2	4
e. Public agencies with programs to reduce and control crime.....	2	4	3	3	15	1	1	18
3. Community representation:								
a. Citizens professional and community organization.....	3	14	4	8	6	7	2	10
4. General government:								
a. Geography:								
1. Urban.....	14	28	16	62	23	8	11	14
2. Rural.....	7	7	9	38	38	13	9	14
b. Level of government:								
1. State.....	8	20	9	11	21	8	8	13
2. Local.....	10	15	16	39	20	13	20	14
c. Elected officials of general local government.....	8	13	5	7	14	5	10	N/A

See footnote at end of table.

SPA SUPERVISORY BOARD COMPOSITION —Continued

	Region V					
	Ohio	Minnesota	Indiana	Michigan	Wisconsin	Illinois
1. Membership:						
a. Filled.....	34	27	12	33	30	28
b. Vacant.....	5		0	0	0	0
2. CJ representation:						
a. Police.....	6	6	2	11	7	8
b. Courts representation:						
1. Courts administration.....	0	1	0	0	0	0
2. Public defender representation...	1	2	4	1	0	0
3. Prosecutors representation.....	3	6	4	2	2	2
4. Judiciary representation.....	3	4	3	4	3	2
c. Corrections.....	3	5	2	3	4	7
d. Juvenile justice representation.....	3	6	2	6	10	5
e. Public agencies with programs to reduce and control crime.....	10	3	10	7	5	1
3. Community representation:						
a. Citizens professional and community organization.....	4	5	1	1	11	2
4. General government:						
a. Geography:						
1. Urban.....	28	14	8	61	3	27
2. Rural.....	7	4	5	12	8	1
b. Level of government:						
1. State.....	13	5	4	26	3	6
2. Local.....	14	13	8	30	11	10
c. Elected officials of general local government.....	17	7	8	18	10	8

	Region VI				
	Texas	Arkansas	Louisiana	New Mexico	Oklahoma
1. Membership:					
a. Filled.....	20	19	59	17	39
b. Vacant.....	0	3	N/A	0	1
2. CJ representation:					
a. Police.....	4	5	23	2	8
b. Courts representation:					
1. Courts administration.....	0	1	1	0	1
2. Public defender representation...	0	0	0	0	0
3. Prosecutors representation.....	3	2	7	2	3
4. Judiciary representation.....	7	6	15	7	14
c. Corrections.....	3	5	14	3	1
d. Juvenile justice representation.....	2	2	9	6	5
e. Public agencies with programs to reduce and control crime.....	1	1	31	5	1
3. Community representation:					
a. Citizens professional and community organization.....	2	2	6	4	18
4. General government:					
a. Geography:					
1. Urban.....	8	1	44	5	15
2. Rural.....	12	2	15	4	24
b. Level of government:					
1. State.....	6	7	14	8	6
2. Local.....	14	9	38	4	14
c. Elected officials of general local government.....	9	6	22	4	8

See footnote at end of table.

SPA SUPERVISORY BOARD COMPOSITION —Continued

	Region VII			
	Iowa	Kansas	Nebraska	Missouri
1. Membership:				
a. Filled	9	17	22	20
b. Vacant	5	1	0	0
2. CJ representation:				
a. Police	6	3	3	2
b. Courts representation:				
1. Courts administration	0	0	1	0
2. Public defender representation	0	0	1	0
3. Prosecutors representation	1	1	2	1
4. Judiciary representation	0	3	2	3
c. Corrections	3	4	2	3
d. Juvenile justice representation	2	4	4	4
e. Public agencies with programs to reduce and control crime	13	8	9	11
3. Community representation:				
a. Citizens professional and community organization	11	9	7	6
4. General government:				
a. Geography:				
1. Urban	18	12	7	15
2. Rural	9	4	16	6
b. Level of government:				
1. State	9	11	7	8
2. Local	8	4	9	5
c. Elected officials of general local government	5	4	7	3

	Region VIII					
	North Dakota	Montana	Utah	Wyoming	South Dakota	Colorado
1. Membership:						
a. Filled	32	16	27	25	20	25
b. Vacant	0	0	0	0	0	0
2. CJ representation:						
a. Police		3	3	6	4	6
b. Courts representation:						
1. Courts administration	1	0	0	0	1	1
2. Public defender representation	1	1	1	1	0	1
3. Prosecutors representation	2	2	2	2	2	2
4. Judiciary representation	2	2	3	2	1	1
c. Corrections	3	3	1	2	4	1
d. Juvenile justice representation	9	2	7	3	6	5
e. Public agencies with programs to reduce and control crime	16	15	7	0	3	1
3. Community representation:						
a. Citizens professional and community organization	11	9	3	9	3	2
4. General government:						
a. Geography:						
1. Urban	17	13	3	13	9	66
2. Rural	16	3	6	13	9	9
b. Level of government:						
1. State		8	11	8	8	10
2. Local		9	16	18	10	0
c. Elected officials of general local government		5	9	5	6	4

See footnote at end of table.

SPA SUPERVISORY BOARD COMPOSITION ¹—Continued

	Region IX					
	Hawaii	American Samoa	Guam	Arizona	California	Nevada
1. Membership:						
a. Filled.....	15	15	8	20	26	17
b. Vacant.....	0	0	1	0	1	0
2. CJ representation:						
a. Police.....	3	1	1	3	6	6
b. Courts representation:						
1. Courts administration.....	0	0	0	1	1	0
2. Public defender representation.....	0	0	0	0	1	0
3. Prosecutors representation.....	4	1	1	3	4	3
4. Judiciary representation.....	1	1	1	2	2	2
c. Corrections.....	1	1	1	3	3	6
d. Juvenile Justice representation.....	2	2	2	4	3	4
e. Public agencies with programs to reduce and control crime.....	1	3	1	1		1
3. Community representation:						
a. Citizens professional and community organization.....	1	3	2	2	2	3
4. General government:						
a. Geography:						
1. Urban.....	9	N/A	2	8		13
2. Rural.....	6	N/A		5		4
b. Level of government:						
1. State.....	3	N/A	N/A	6	9	5
2. Local.....	10	N/A	N/A	14	15	11
c. Elected officials of general local government.....	5	N/A	N/A	8	10	7

	Region X				Total all regions
	Idaho	Oregon	Washington	Alaska	
1. Membership:					
a. Filled.....	22	18	29	13	1,365
b. Vacant.....	0	0	0	2	41
2. CJ representation:					
a. Police.....	4	3	4	2	279
b. Courts representation:					
1. Courts administration.....	0	0	1	1	23
2. Public defender representation.....	0	1	0	1	33
3. Prosecutors representation.....	3	2	2	2	143
4. Judiciary representation.....	4	0	2	2	188
c. Corrections.....	1	2	2	1	172
d. Juvenile Justice representation.....	2	1	4	3	233
e. Public agencies—with programs to reduce and control crime.....	10	5	1	3	392
3. Community representation:					
a. Citizens professional and community organization.....	3	7	9	2	297
4. General government:					
a. Geography:					
1. Urban.....	3	N/A	27	11	441
2. Rural.....	4	N/A	2	2	415
b. Level of government:					
1. State.....	10	1	5	8	448
2. Local.....	7	12	13	5	630
c. Elected officials of general local government.....	12	6	11	3	258

¹ The total number of representations exceeds the totals shown in the Membership column because a board member may represent more than 1 function or interest. For example, a sheriff serving on a board may represent police and also local government.

NA=Not available.

Senator HRUSKA. We stand in adjournment now. Our next hearing now on the subject is December 4 at 10 o'clock in this same room, 2228.

[Whereupon, at 12:10 p.m., the subcommittee adjourned, to reconvene again on December 4.]

[Material furnished for the record.]

NATIONAL ORGANIZED CRIME AND CORRUPTION PROGRAMS

I. GENERAL SUMMARY

The Omnibus Crime Control and Safe Streets Act mandated LEAA to assist and encourage state and local governments to improve and strengthen law enforcement and criminal justice efforts against organized crime by (1) organizing special organized crime units, (2) recruiting and training special investigators and prosecutors for such units, (3) establishing and developing state organized crime prevention councils and (4) developing organized crime information systems. "Organized Crime," as defined in the Act means the unlawful activities of the members of a highly organized disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering and other unlawful activities of members of such organizations.

LEAA has met this Congressional mandate through two programs. First, LEAA has encouraged and assisted State Planning Agencies to give special emphasis, where appropriate or feasible, in their Comprehensive State Plans to programs and projects dealing with the prevention, detection and control of organized crime (Section 307). Second, LEAA has established a National Organized Crime and Corruption Program coordinated and funded through the LEAA Central Office in Washington, D.C. The National Organized Crime and Corruption Program is administered by the Organized Crime Section of the Office of Regional Operations in cooperation with the ten LEAA Regional Offices.

In addition, individual organized crime research projects and individual organized crime systems development projects are developed and funded respectively by the National Institute of Law Enforcement and Criminal Justice and the National Criminal Justice Information Systems and Statistics Service.

This report will deal for the most part, with the National Organized Crime and Corruption Program.

II. PROGRAM GOALS, PRIORITIES AND POLICIES

A. Goals

LEAA established the National Organized Crime and Corruption Program in FY 1969 to provide a specific category of fund availability to state and local governments for developing projects to combat organized crime. The ultimate goal of this program is to assist State and local governments in the identification, containment, reduction, elimination and prevention of organized crime racketeering throughout the United States. The program is devoted to developing and funding quality programs that anticipate the following results:

(1) An increase in the ability of State and local governments to launch and sustain an effective organized crime control program.

(2) A reduction in the fragmented and duplicative approach to organized crime investigation and prosecution.

(3) An increase in the sharing of information between agencies.

(4) New and improved techniques and methodologies for structuring and operating organized crime control projects.

(5) An increase in the identification and the understanding of the scope and seriousness of organized crime and its corrupting influence.

(6) A measurable reduction in the activities of organized criminal groups.

B. Priorities

Projects funded through the National Organized Crime and Corruption Program are separated into five functional areas utilizing three methods of funding as follows:

B. Functional area	Discretionary	Technical assistant	Section 407
1. Intelligence collection and analysis.....	X		
2. Investigation and prosecution.....	X		
3. Training.....	X	X	X
4. Organized crime prevention councils.....	X		
5. Technical assistance.....		X	X
6. Fiscal year 1976 fund allocation.....	\$9,241,000	\$500,000	\$250,000

The funding priorities for the program are directly related to the methods of funding as follows:

1. *Discretionary Funds*.—Priority is given to proposed operation projects (functional area 1 and 2) having multi-jurisdictional and inter-disciplinary participation. In the training area, priority is given to proposed projects to establish regional, institutionalized training programs. Priority for Organized Crime Prevention Councils is given to those states that do not have a formal planning group for designing and implementing organized crime and corruption control programs.

2. *Technical Assistance Funds*.—Priority is given to proposed projects to establish training programs in certain specialized organized crime law enforcement techniques. Projects to develop "how to" manuals in these specialized areas are also given priority.

3. *Section 407 Funds*.—Part D, Section 407 of the Safe Streets Act specified that funding under this section would be exclusively for training state and local prosecuting attorneys engaged in the prosecution of organized crime. Priority under this section is given to proposed projects to establish institutionalized national training programs or the development of pilot training programs which can be duplicated on a regional basis.

C. Policies

In addition to the agency-wide policies of LEAA, the following specific policies have been applied by the Organized Crime Section, ORO:

1. Section 301(d), one-third personnel limitation has not been applied to any grant funded under the National Organized Crime and Corruption Program. Such grants are considered developmental and demonstrative in nature and are short term in duration (the average length of a DF grant is two years). For these reasons, organized crime and corruption grants under this program have been considered exempted from the one-third personnel limitation as allowed by the Act.

2. The nature of organized crime and corruption investigations and prosecutions demands that personnel assigned to specialized units to combat this problem be experienced investigators and prosecutors. Grantees are requested to assign experienced personnel to grants made under this program.

3. Firearms and other weapons are not an allowable expense for Federal funds in organized crime and corruption projects.

4. Grants under this program must be devoted to organized crime as defined in Part G, Section 601(b) of the Safe Streets Act (See page 1, paragraph 1 of this report).

5. Each grant must have specific funds allocated in the budget for an evaluation component which, at a minimum, should include an assessment of project internal operations and a comparative assessment of the project impact based on pre-project implementation period. Unless otherwise specified, their evaluation should be performed by an outside evaluator.

6. Prior to the expenditure of funds allocated for confidential expenditures, the project director shall sign a certificate indicating that he has read, understands and agrees to abide by all of the conditions pertaining to confidential fund expenditures as set forth in Appendix 10. Guidelines for Confidential Expenditures, of the LEAA Guideline Manual entitled, Financial Management for Planning and Action Grants.

7. No electronic, mechanical or other device for surveillance purposes may be purchased or used by the project that is in violation of the provisions of Title III, P.L. 90-351, as amended, and any applicable state statute related to wire tapping and surveillance.

8. States must show a current investment of LEAA block grant funds, in either a project under this program or in other clearly identifiable organized crime programs, equal to at least 50 percent of the amount of grant funds applied for under this program.

9. Projects must have procedures, acceptable to LEAA, for ensuring the security and privacy of information in their intelligence system. Chapter 8, of the Report entitled, "Criminal Justice System" prepared by the National Advisory Commission on Criminal Justice Standards and Goals (1973) should be used as a guide.

10. Continuation funding for original grants may be considered by LEAA conditioned upon the following:

- a. The availability of funds.

b. That every effort has been made to secure continuation funding from other fund sources.

c. That the grants/projects are judged by the Regional Office and State Planning Agencies as having an effective operation and is considered critical to the organized crime law enforcement in those jurisdictions.

d. That failure to obtain continued financial support for the grant would mean the termination of the unit.

e. That the request for continuation funding is less than the amount of the original grant award.

11. Organized crime and corruption intelligence operations and files are kept separate from any other intelligence operation of files.

12. That all operational projects (functional area 1 and 2, Section II B of this report) are coordinated with the Organized Crime and Racketeering Section, Criminal Division; the Federal Bureau of Investigation and the Drug Enforcement Administration before funding approval is given for a grant by LEAA.

13. All grant applications for organized crime and corruption projects using Discretionary Funds must be developed and processed according to the guidelines set forth in Chapter 19 of the LEAA Guide for Discretionary Grant Programs (July 10, 1975-M 4500. 1D).

14. A division of the annual fund allocation (\$250,000 in FY 76) for Section 407 (Prosecutor Training) grants among States or localities for their own programs would create no significant national impact and very few areas could be served. Therefore, requests from States or localities for individual training programs are not approved.

III. GENERAL OVERVIEW OF ORGANIZED CRIME AND CORRUPTION DISCRETIONARY GRANTS

At the request of the Administrator, the Organized Crime Section, Office of Regional Operations, developed and conducted a two week survey in the ten LEAA Regional Offices of all the Organized Crime Discretionary Grants awarded from June 26, 1969 to November 29, 1974.

The objective of the survey was to determine, in the shortest possible time frame, what impact had been made by the LEAA Organized Crime Discretionary Grant Program against the problem of organized criminal activities nationwide. It was decided to measure the impact by collecting case studies of major accomplishments and compiling statistical data reflecting the total operational activity of each funded project.

In order to meet the objective of the survey in as short a time as possible, it was decided to gather the material needed from the progress reports and the final reports submitted by each grantee or subgrantee. As these existed only at the various Regional Offices, the staff of the Organized Crime Section, after developing special survey forms, visited each Regional Office and compiled the existing data by reviewing each of the 96 Organized Crime Discretionary Grants awarded since June 26, 1969.

The following sections of this paper reflects the results of the survey based on the data existing in the grant files.

A total of 96 grant project files were examined during the two week survey period of 11/18/74 thru 11/29/74. These 96 grants were funded in the functional areas of intelligence operations (37), investigation and prosecution units (44), training programs (5) and organized crime prevention councils (10).

The funds committed to these 96 grants involved \$27,790,324 in Discretionary Funds; \$13,038,738 in State and local matching funds; and \$3,337,058 in Block Grant Funds used in conjunction with Discretionary Funds. This resulted in a total of \$44,166,120 committed to the LEAA Organized Crime Discretionary Grant Program.

The progress and final reports of the 96 grants estimated that the operational activities of these projects resulted in a capital loss to organized crime of \$1,500,863,462. This involved the recovering of stolen property, the confiscation of contraband (such as, narcotics, bribe money and gambling proceeds), the diverting of organized crime capital from being invested in legitimate businesses and the closing down of organized crime operations (such as gambling and narcotics). For example; the Organized Crime Unit of Cincinnati, Ohio, Police Department effected the recovery of \$3 million in Rembrandt paintings. The

North Carolina State Bureau of Investigation diverted \$250 million in organized crime capital from legitimate businesses by preventing a sale of bonds by a legal dealer to an organized crime member. The Miami Police Department, during one gambling investigation, confiscated a total of \$59,106; resulted in a \$70,465 levy being placed by IRS against two of the persons arrested and closed down a bookie operation netting in excess of \$55,000 per week. Also, the Miami Police Department ended a two month investigation, which included the use of court approved telephone intercepts, with the arrest of James Dowling, a major violator in a Black Organized Crime Narcotics Network with links to the New York "Families." The illegal narcotics were purchased in Nassau and smuggled into Miami for distribution. It is estimated that the street value of the distributed narcotics reached \$325,000 per month. The West Virginia Purchasing Practices and Procedures Commission investigated corruption in that State's purchasing operation and in one year saved the State of West Virginia over \$100 million in the cost of purchasing goods and services. The New York City Police Department investigating the smuggling of untaxed cigarettes into New York State, confiscated over 82,000 cartons of cigarettes at a value of approximately \$240,000. The Rhode Island Attorney General's Organized Crime Unit stopped an FHA loan to Robert Barbota, an organized crime figure, saving the U.S. Government \$2 million. Barbota had given false information on the loan application. Also, the Rhode Island Attorney General, using court approved wire taps, closed a large gambling operation in Rhode Island estimated netting over \$100 million annually with the arrest of Francis Joseph Patriarca, brother of Raymond Patriarca leader of the Rhode Island Organized Crime "Family." Finally, during the recent "beef crisis" the Eastern District of New York Joint Federal/State and Local Strike Force, recovered over \$80,000 in hijacked meat.

The 96 grants funded under the Organized Crime Discretionary Grant Program resulted in the assignment nationwide of 1,293 personnel to the specific task of organized crime law enforcement. The personnel assigned included intelligence collectors, intelligence analysts, investigators, prosecutors, economic specialists, criminal justice planners and support staff.

Eighty-one of the 96 grants funded were operational units involved in intelligence, investigation and prosecution. These units initiated 17,831 investigations against organized crime. The results of these investigations were the establishment of 71,442 files on organized criminal activities; 6,152 arrests; 3,199 indictments and 424 convictions of organized crime members. For example: A narcotic investigation by the Miami Police Department resulted in the arrest and conviction of two members of a large South Florida narcotic smuggling group for conspiracy to smuggle 4,500 pounds of marijuana into Florida. The Connecticut State Police closed down three separate sports betting operations resulting in 33 arrests. These combined gambling operations netted over \$11 million yearly. During 1972, the Rhode Island Attorney General's Organized Crime Unit used 10 court approved wire taps to intercept 13,535 conversations resulting in 17 indictments of 44 persons for conspiracy and three indictments of 53 persons for gambling violations. Also, the Rhode Island Attorney General's Organized Crime Unit convicted Raymond Patriarca, boss of the Rhode Island "Family," for murder in the Marfeo/Melel gangland slayings. In New York State, the Organized Crime Unit of the New York Attorney General joined with 400 police in a 10 county gaming raid which resulted in 46 arrests. This gaming operation, which netted over \$100 million yearly, was linked to the Joseph Columbo "Family" in New York City. Also, the New York Attorney General's Unit assisted in the arrest of 4 subjects operating a multi-state, multi-million burglary ring. The West Virginia Purchasing Practices and Procedures Commission investigating corruption in the area of State purchasing led to the conviction of a former Governor of West Virginia for corrupt practices. The Illinois Attorney General's Organized Crime Unit indicted 22 officers and employees of an investment and life insurance company for anti-trust violation. This unit issued 50 subpoenas, presented 100,000 documents and called 100 witnesses to appear before the special anti-trust grand jury. The New York Office of Special Prosecutor processed 1,141 allegations of corruption within a four month period resulting in the opening of 147 cases dealing with the New York City criminal justice system. As a result of these investigations, Norman Levy (President of the New York City Tax Commission), Stanley Israel (Administrative Hearing Officer for the Kings

County Office of the New York City Parking Violations Bureau) and John Fratianni (Deputy Commissioner New York City Department of Purchase) were arrested for the crimes of conspiracy, forgery, tampering with public records and obstruction of governmental administration. Messrs. Levy, Israel and Fratianni were involved in a scheme by which over 1,000 New York City Parking tickets of politically influential persons were allegedly illegally fixed. Also, Thomas J. Mackell (District Attorney Queens County) and James Robertson (Deputy Chief Assistant District Attorney Queens County) were arrested for the crimes of conspiracy, hindering prosecution and official misconduct. At the same time Messrs. Mackell and Robertson were arrested, a Mr. Frank DePaola (former County Detective in the Queens District Attorney's office) was arrested for the crimes of conspiracy, hindering prosecution, official misconduct and grand larceny. Messrs. Mackell, Robertson and DePaola were involved in a scheme to interfere with the prosecution of Joseph Ferdinando, who was alleged to have defrauded investors in a fraudulent scheme out of approximately \$4,000,000. In addition, DePaola is alleged to have participated with Ferdinando in carrying out the fraudulent scheme. A joint investigation was undertaken by the New York County District Attorney's Office, the Joint Strike Force, Federal Bureau of Investigation, Drug Enforcement Administration (formerly Bureau of Narcotics and Dangerous Drugs), Secret Service and Bureau of Customs. The investigation lasted for eighteen months, and involved extensive use of court authorized wiretapping on a Federal and local level as well as abroad. The investigation resulted in the filing of eight State and six Federal indictments being filed and the ultimate conviction of 27 individuals of which 15 are recognized organized crime members or associates. The crimes charged ranged from the illegal importation of eight kilos of cocaine, conspiracy to counterfeit U.S. currency, extortion, attempted murder and the transportation of \$18 million in stolen and counterfeit securities in inter-state and foreign commerce. A number of indicted individuals are fugitives and warrants have been issued for their arrest. An investigation worked jointly between the Joint Strike Force, Federal Bureau of Investigation, New York County District Attorney's office and the New York City Police Department concentrated on illegal gambling activities in the Metropolitan area. A total of four cases resulted in which 20 persons were indicted and convicted of violation of the Federal Illegal Gambling Business Act. Another joint investigation undertaken by the Strike Force, New York County District Attorney and the Internal Revenue Service involving the infiltration by organized crime figures of the meat industry, as well as systematic kick-backs and bribes paid to major supermarket chain, and union officials. To date two Federal and five State indictments have been filed. Among those indicted was the Chairman of the Board of Iowa Beef Processors, Inc. the nation's largest meat packing company.

Five grants funded in the area of organized crime law enforcement training, resulted in the participation of 2,523 attendees for specialized instruction in intelligence operations and investigation techniques against organized criminal activities. The cost for training each attendee was \$1,049. This figure includes travel, per diem, classroom space, study materials, training and support staff and the attendees wages while at the training program (used as match in some earlier training projects). Over 96 percent of all trainees were investigators. Training for prosecutors in organized crime is funded through a special program established by Section 407 of the Safe Streets Act.

The final functional area surveyed were the Organized Crime Prevention Councils (OCPC). Of the 10 grants funded, two were terminated and one has not yet begun operation. (Of the 18 operating council nationwide, 11 are funded only with the Block grant funds.) For example: The Oregon OCPC developed operational plans to combat the organized crime infiltration of State sport services and race tracks. This involved the development of a 1,500 card reference file and confidential information from four States and the Federal government. The center of these inquiries was the Emprise Corporation of Buffalo, New York. The North Carolina OCPC developed and published 6,000 copies of a handbook entitled "Organized Crime in North Carolina." Also, this OCPC submitted legislation in the area of establishing a statewide grand jury, electronic surveillance authority, a witness immunity law and harder gambling laws. Only the witness immunity legislation was enacted. This council was also instrumental in the DF grant which established an Organized Crime Unit

with the North Carolina State Bureau of Investigation. The Ohio OCPC developed a plan and was awarded a DF grant to establish a statewide organized crime training program. This program is now being considered for expansion to a six state regional training program. The Georgia OCPC has long been considered the model for the Organized Crime Prevention Council Program. For example, during 1972, the Georgia OCPC coordinated the implementation of the Georgia State Intelligence Network (GSIN); initiated, through the SPA, the funding of 15 local law enforcement intelligence units; conducted training sessions for state and local intelligence agents; established, coordinated, and directed semi-monthly metropolitan Atlanta intelligence conferences; coordinated the first confidential seminars and bi-monthly confidential reports on organized crime in Georgia for need-to-know officials; rendered technical assistance to other states interested in creating an Organized Crime Prevention Council; and co-sponsored the 1972 Annual Meeting of the National Association of Citizens Crime Commission.

IV. STATISTICAL ANALYSIS OF ORGANIZED CRIME AND CORRUPTION DISCRETIONARY GRANTS—(JUNE 26, 1969 THROUGH NOV. 29, 1974)

Intelligence and Investigation/Prosecution Units

A. Total funds committed to programs:

1. Discretionary funds:	
a. Intelligence.....	\$12, 015, 786.
b. Investigation/prosecution.....	\$13, 424, 753
Total discretionary funds.....	<u>\$25, 440, 539.</u>
2. State/local matching funds:	
a. Intelligence.....	\$5, 653, 032.
b. Investigation/prosecution.....	\$6, 288, 994.
Total matching funds.....	<u>\$11, 942, 026.</u>
3. Bloc grant funds used in conjunction with discretionary funds (does not reflect total bloc grant funding in organized crime):	
a. Intelligence.....	\$1, 073, 768.
b. Investigation/prosecution.....	\$2, 262, 830.
Total bloc.....	<u>\$3, 336, 598.</u>
Total funds committed to program.....	<u>\$40, 719, 163.</u>

B. Estimated dollar impact of the LEAA organized crime discretionary grant program on organized crime capital:

1. Recovered stolen property.....	\$45, 692, 796.
2. Confiscated contraband.....	\$4, 572, 166.
3. Organized crime capital diverted from being invested in legitimate business.....	\$250, 000, 000.
4. Organized crime operations closed down.....	\$1, 200, 618, 500.
Total dollar impact.....	<u>\$1, 500, 883, 462.</u>

C. Total number of projects funded:

1. Intelligence.....	37
2. Investigation/prosecution.....	44
Total projects.....	<u>81</u>

D. Total manpower assigned to combat organized crime:

1. Intelligence.....	576.
2. Investigation/prosecution.....	623.
Total manpower.....	<u>1, 199.</u>

IV. STATISTICAL ANALYSIS OF ORGANIZED CRIME AND CORRUPTION DISCRETIONARY GRANTS—Continued

Intelligence and Investigation/Prosecution Units—Continued

E. Average discretionary funds grant:

1. Intelligence:

a. Discretionary funds-----	\$325, 000
Matching funds-----	\$153, 000
<hr/>	
Total project funds-----	\$478, 000
b. Manpower assigned-----	16
c. Discretionary funds grant period—2 years	
(see following table in percent):	
1 year to 18 months—15 grants=41	
2 years (continuation)—11 grants=30	
3 years (continuation)—7 grants=19	
4 years (continuation)—3 grants=8	
5 years (continuation)—1 grant=2	

2. Investigation/prosecution:

a. Discretionary funds-----	\$305, 000
Matching funds-----	\$143, 000
<hr/>	
Total project funds-----	\$448, 000
b. Manpower assigned-----	14
c. Discretionary funds grant period—2 years	
(see following table in percent):	
1 year to 18 months—32 grants=73	
2 years (continuation)—7 grants=16	
3 years (continuation)—2 grants=4.5	
4 years (continuation)—2 grants=4.5	
5 years (continuation)—1 grant=2	

F. Operational activities against organized crime:

1. Intelligence:

a. Investigations:	2, 270
1. Gambling—26 percent	
2. Prostitution—4 percent	
3. Loan sharking—1 percent	
4. Narcotics—5 percent	
5. Labor racketeering—2 percent	
6. Corruption—4 percent	
7. White collar—7 percent	
8. Other ¹ —51 percent	

NOTE.—The 51 percent in the "other" category for Intelligence investigations includes investigations begun on known organized crime members in an attempt to discover what illegal activities they were involved in. In most cases, the organized crime member under investigation was at one time involved in all of the activities listed above.

b. Files developed on organized crime activities-----	71, 442
c. Intelligence reports disseminated-----	26, 970
d. Cases referred to other agencies (Federal/State/local)-----	432
e. Joint investigations (Federal/State/local)-----	469
2. Investigation/prosecution:	
a. Investigations-----	15, 561
1. Gambling—18 percent	
2. Prostitution—.3 percent	
3. Loan sharking—.4 percent	
4. Narcotics—5 percent	
5. Labor racketeering—.3 percent	
6. Corruption—43 percent	
7. White collar—16 percent	
8. Other ¹ —17 percent	

¹ Includes: Auto theft rings, burglary rings, arson, murder, pornography, cargo theft, and other crimes listed as miscellaneous by grantees.

IV. STATISTICAL ANALYSIS OF ORGANIZED CRIME AND CORRUPTION DISCRETIONARY
GRANTS—Continued

Intelligence and Investigation/Prosecution Units—Continued

F. Operational activities against organized crime—Continued

2. Investigation/prosecution—Continued

b. Arrests:

1. Investigation/prosecution-----	3, 108
2. Resulting from intelligence disseminations-----	3, 048
Total-----	<u>6, 156</u>

- a. Gambling—53 percent
- b. Prostitution—2 percent
- c. Loan sharking—0
- d. Narcotics—26 percent
- e. Labor racketeering—0
- f. Corruption—9 percent
- g. White collar—5 percent
- h. Other¹—5 percent

NOTE.—Large percentage of arrests in gambling and narcotic categories reflects statewide raids of gambling and narcotic operations resulting in the arrest of many street-level operations.

c. Indictments:

1. Investigation/prosecution-----	2, 900
2. Resulting from intelligence disseminations-----	299
Total-----	<u>3, 199</u>

- a. Gambling—41 percent
- b. Prostitution—0
- c. Loan sharking—0
- d. Narcotics—8 percent
- e. Labor racketeering—0
- f. Corruption—8 percent
- g. White collar—20 percent
- h. Other¹—23 percent

d. Convictions:

1. Investigation/prosecution-----	373
2. Resulting from intelligence disseminations-----	51
Total-----	<u>424</u>

- a. Gambling—43 percent
- b. Prostitution—0
- c. Loan sharking—0
- d. Narcotics—20 percent
- e. Labor racketeering—0
- f. Corruption—10 percent
- g. White collar—18 percent
- h. Other¹—9 percent

NOTE.—Many grantees or subgrantees stated that a number of prosecutions were still pending at the time of grant termination; therefore, the total convictions stated above does not reflect the final results of the pending prosecutions.

e. Cases referred to other agencies (Federal/State/local)-----	2, 882
f. Joint investigations (Federal/State/local)-----	147

IV. STATISTICAL ANALYSIS OF ORGANIZED CRIME AND CORRUPTION DISCRETIONARY GRANTS—Continued

Organized Crime Law Enforcement Training Programs

A. Total funds committed to program:	
1. Discretionary funds	\$1, 702, 280
2. Matching funds	\$944, 838
Total funds	\$2, 647, 117
B. Total number of projects funded	
5	
C. Total manpower assigned as full-time staff (majority of projects use "guest" instructors to augment small full-time staff)	
31	
D. Number of trainees:	
Police	2, 434
Nonpolice	89
Total	2, 523
NOTE.—Prosecutor training is funded under section 407 of the Safe Streets Act.	
E. Average number of States sending participants to each training project	
17	
F. Average cost of training each attendee—includes, travel, per diem, class room materials, training and support staff, attendees' wages while at training program	
\$1, 049	

Organized Crime Prevention Council Program

A. Total funds committed to program:	
1. Discretionary funds	\$647, 505
2. Matching funds	\$151, 875
3. Block grant funds used in conjunction with discretionary funds (does not reflect total bloc grant funding in organized crime)	\$460
Total funds	\$799, 840
B. Total number of projects funded	
10	
C. Total manpower assigned:	
1. Full-time staff	21
2. Council members	42
Total manpower	63
D. Average discretionary funds grant:	
1. Discretionary funds	\$64, 750
Matching funds	\$15, 187
Total project funds	\$79, 937
2. Staff assigned—2 (7 council members)	
3. Discretionary funds grant period:	
1 year—7 grants	
2 year (continuation)—2 grants	
3 year (continuation)—1 grant	

NOTES.—The organized crime prevention council program is one of planning and coordination. The progress and final reports of the grantees or subgrantees included only narrative accounts of the Council operations.

V. GENERAL OVERVIEW OF TECHNICAL ASSISTANCE GRANTS AND CONTRACTS FOR ORGANIZED CRIME LAW ENFORCEMENT

Technical assistance funding for organized crime projects began in FY 1970 with a project to provide State and local law enforcement personnel participation in the Internal Revenue Service Special Agent Basic School. This project, which was refunded twice and is still in operation under a FY 1975 TA grant, provides an excellent opportunity for applying Federal training resources to strengthening State and local capabilities for complex and sophisticated criminal investigation, particularly in matters related to organized crime and other areas involving intricate commercial activities. Another example of Federal/State and local cooperation in the area of training is an inter-agency agreement between LEAA and the Alcohol, Tobacco and Firearms Bureau of the Department of the Treasury which provides training to State and local law enforcement agencies in the following areas: Raids, Searches and Seizures; Explosives and Firearms; Surveillance; Undercover Techniques; and Interrogation.

Development of Informers and Evaluation of Information ATF, who sends instructors to law enforcement agencies requesting this service, has been providing these LEAA funded training programs for state and local law enforcement agencies on a regular basis since 1972 ATF has a high degree of expertise in this field and the program has been very well received by the state and local agencies. Since the beginning of the existing ATF training program in October 1972, state and local participants in the programs have expended a total of 30,332 manhours in the training classes. Like the IRS project, this program is also still operating under a FY 1975 extension to the interagency agreement.

Also in the area of training, LEAA has funded since January 1972, five national conferences—Williamsburg, Virginia; San Diego, California; South Bend, Indiana; New Orleans, Louisiana and Indianapolis, Indiana. Approximately 1,100 persons attended these five conferences. Included were police officials, prosecutors, judges and criminal justice planners from all fifty states. To date in FY 75, grants have been awarded to develop three intelligence analysis and commander seminars; a training program for prevention and detection of cargo theft; and a high level National Conference on Organized Crime, which will be held in Washington, D.C., October 1-4, 1975, and is designed to update the 1967 Task Force Report on Organized Crime prepared by the President's Commission on Law Enforcement and Administration of Justice. In addition to the training materials developed by the various training programs, LEAA prepared and published various handbooks such as the "Police Guide on Organized Crime." This is a handbook for police officers that describes their role in developing information on organized crime. It is intended to complement existing procedures and policies in local departments by providing officers with a broad awareness of the various manifestations of organized crime and how to deal with them. To date, over 300,000 copies have been distributed to law enforcement officers. The booklet has been used extensively in connection with in-service training programs and in criminal justice courses in colleges and universities. Another example of such publication is the widely distributed manual entitled "Basic Elements of Intelligence." The basic objectives of this manual are (1) to describe the process and application of intelligence, (2) to explore the structure, training, staffing and security of intelligence units and (3) to present trends in the law as they may now and in the future effect the mission and functioning of the intelligence units of law enforcement agencies. A project to update this manual has been funded in FY 1975.

As a cooperative effort between LEAA and the Department of Transportation, a publication entitled "Cargo Theft and Organized Crime" was prepared. This is a desk book for management and law enforcement. It describes the role of organized crime in cargo theft and effective procedures that can be taken to insure cargo security. It describes the extent to organized crime, and indicates what management techniques and procedure-oriented steps business executives can take to prevent cargo theft. The desk book has been distributed nationally by both LEAA and Department of Transportation.

Also initiated in FY 75 are grants to develop a manual on combatting the property theft and fencing problem and a manual to assist state and local governments combat white collar or economic crime.

VI. GENERAL OVERVIEW OF SECTION 407, PROSECUTOR TRAINING IN ORGANIZED CRIME

Funding under Section 407 of the Safe Streets Act began in FY 1973. Under separate grants to the National College of District Attorneys General (NAAG), 460 prosecutors have been trained at 13 seminars. The five NCDA seminars dealt with procedures for using investigative grand juries, development of an organized crime unit in a prosecutor's office, electronic surveillance and intelligence gathering and dissemination. The eight NAAG seminars focused on official corruption, anti-trust and tax violation. The NAAG is presently publishing a monthly Organized Crime Newsletter with a Section 407 grant, and will hold a national conference for organized crime prosecutors early in 1975. A project to establish an institutionalized organized crime training program for prosecutors at Cornell University in New York was funded in 1975.

VII. SIGNIFICANT ISSUES

The issue that could possibly cause the largest problem or generate the most concern is the lack of a complete evaluation of the National Organized Crime and Corruption Program. Twice within the last three years, discussions have been had with the National Institute of Law Enforcement and Criminal Justice in an effort to get the National Institute to support a complete and true evaluation of the National Organized Crime and Corruption Program. Twice, the National Institute has rejected the request for evaluation due to lack of resources and other commitments. The National Institute did assist in the evaluation of the New England Organized Crime Intelligence System (NEOCIS), a six State project. The only other evaluations existing are the self-evaluations required of each project. A recent survey of these evaluation components in each project was made by the Organized Crime Section of ORO (See Sections III and IV of this report). As a result of the survey, two recommendations were made to the Administrator:

1. Immediately develop a uniform statistical and case study reporting criteria for organized crime discretionary grant progress and final reports and make this reporting criteria mandatory for all such grants.
2. Initiate a project, possibly with the National Institute for Law Enforcement and Criminal Justice, to structure a continuous evaluation methodology for the organized crime DF program. This should also include detailed evaluations of selected grants in each organized crime funding category to ascertain the state-of-the-art for the various functional areas in each category, e.g. intelligence operations, investigations, prosecutions, training and planning.

On December 20, 1974, approval was given to begin the planning and development of recommendation number one. The second issue for discussion is the lack of organized crime specialist positions for the LEAA Regional Offices. Personnel assigned to coordinate organized crime projects in the Regional Offices are primarily responsible for other program areas, and due to a heavy workload in these other program areas, are generally unable to put emphasis on the development and monitoring of organized crime and corruption projects. Also effected, is the coordination and assistance needed to make more effective the use of block grant funds in combatting organized crime. Through a very close relationship between members of the Organized Crime Section and the Regional Office personnel, excellent efforts are being made to compensate for the lack of full-time Regional Office organized crime specialists. However, the program would greatly benefit from the assignment of an organized crime specialist in at least those Regional Offices with States that have a recognized organized crime and corruption problem.

VIII. FUND FLOW INFORMATION

CHART 1—FUND FLOW BY FISCAL YEAR FOR EACH CATEGORY OF FUNDING

Category	1969	1970	1971	1972
Discretionary.....	286,198	\$4,038,381	\$3,964,129	\$5,481,424
Technical Assistance.....		49,100	43,763	355,750
Section 407.....				
Bloc ¹	1,021,505	5,447,348	7,314,941	9,947,396
	1973	1974	1975	Total
Discretionary.....	\$5,396,524	\$7,403,310	\$8,875,397	\$35,445,363
Technical Assistance.....	20,000	313,065	499,244	1,280,922
Section 407.....	280,000		463,804	743,804
Bloc ¹	9,759,767	3,003,041	(²)	36,493,998
Total.....				73,964,087

¹ Bloc figures from CMIS printout.² Not available.

CHART 2—FUND FLOW BY STATE FOR DISCRETIONARY GRANTS

State	Fiscal year						
	1969	1970	1971	1972	1973	1974	1975
Alabama.....							
Alaska.....							
Arizona.....			94,728		103,058		
Arkansas.....							
California.....		250,000		592,474	1,230,612	171,742	
Colorado.....		84,663	280,771	122,185	98,570	154,625	120,000
Connecticut.....		52,980				220,859	214,700
Delaware.....			124,135		91,685	109,204	
District of Columbia.....		108,600		210,560		186,047	
Florida.....	100,096	516,176	639,329	236,688	763,557		1,500,800
Georgia.....		16,400	265,400	42,000	151,000	185,000	
Hawaii.....			298,625	220,569			
Idaho.....		48,017					
Illinois.....		250,540		250,000	200,000	1,648,500	
Indiana.....		150,000		242,674			787,500
Iowa.....				170,500			224,665
Kansas.....			243,443	244,736		213,846	
Kentucky.....			205,967		356,350		
Louisiana.....		183,103			250,000	884,338	686,625
Maine.....							
Maryland.....						182,131	194,015
Massachusetts.....	174,176	598,430		609,335	669,000	603,345	421,017
Michigan.....	11,926	130,800	753,355	324,247	618,742		
Minnesota.....			117,878	29,475		340,577	
Mississippi.....							
Missouri.....							
Montana.....					38,118		
Nebraska.....							
Nevada.....					186,056	249,324	459,358
New Hampshire.....							1,325,364
New Jersey.....		500,192		327,900		200,000	
New Mexico.....					104,748	155,821	
New York.....		726,986	237,201	285,552	199,951	645,237	1,310,000
North Carolina.....			38,506	182,436	89,977	219,003	
North Dakota.....							
Ohio.....			98,400	245,903		438,315	126,450
Oklahoma.....		21,895		50,000			
Oregon.....			32,734		25,000		
Pennsylvania.....			263,395			305,000	400,000
Rhode Island.....		48,200	73,185	73,085			
South Carolina.....							314,414
South Dakota.....							
Tennessee.....							
Texas.....		213,669	197,077	441,638			
Utah.....						99,783	199,790
Virginia.....							340,699
Vermont.....							
Washington.....		49,965					
West Virginia.....		193,739		354,467			
Wisconsin.....		138,880		225,000	220,000	190,613	250,000
Wyoming.....							
Guam.....							
Puerto Rico.....							
Total.....	286,198	4,038,381	3,964,129	5,481,424	5,396,524	7,403,310	8,875,397

CHART 3—FUND FLOW BY STATE FOR BLOC GRANTS

State	Fiscal year					
	1969	1970	1971	1972	1973 ¹	1974 ¹
Alabama	\$4,000	\$16,694	\$107,398			
Alaska		35,321		25,000	25,035	25,000
Arizona	10,000	31,992	100,061	146,475	117,610	
Arkansas		5,000	125,631	64,069	122,659	
California	200,000	1,002,677	407,485	1,934,177	41,892	
Colorado	3,750	94,057	202,537	179,234	50,000	185,000
Connecticut	78,800	144,327	121,827	76,021	127,887	145,542
Delaware	8,909	12,721		35,870	7,500	
District of Columbia					8,000	
Florida	40,467	230,650	126,639	6,000	40,983	366,984
Georgia			5,802	267,981	353,753	515,569
Hawaii		68,041	226,020	129,250	75,000	
Idaho		36,010	82,123	33,954	11,028	58,621
Illinois		240,121	204,209	181,810	578,490	
Indiana	164,968	161,392	237,404	290,239	26,939	223,737
Iowa	3,000	116,675	158,218	116,977	196,416	9,132
Kansas	4,918	6,834	52,250	74,814	465	33,542
Kentucky		60,000		59,664	726,149	112,504
Louisiana	36,306	183,739	314,028		263,967	134,164
Maine				1,530		
Maryland		40,541	531,974	50,054	68,661	
Massachusetts	14,850	105,000	8,520	166,208	125,000	
Michigan	72,434	672,727	872,144	1,224,648	132,897	
Minnesota	12,978		97,604	16,365		
Mississippi		214,852	119,064		127,000	
Missouri			113,406	80,904		
Montana	1,517			615		
Nebraska				1,173	522	
Nevada		10,800		773	1,251	
New Hampshire			4,453			
New Jersey	122,567	214,086	710,878	813,911	1,077,800	552,600
New Mexico	4,297		6,500		223,197	
New York	122,330	227,388	129,503	528,764		
North Carolina			36,225	75,800	98,478	79,804
North Dakota				233		
Ohio		264,913	556,052	124,500	428,627	186,000
Oklahoma		18,000	75,242		131,665	44,859
Oregon						
Pennsylvania	84,514	667,235	512,643	2,122,602	894,450	
Rhode Island			10,524	8,935		
South Carolina	217	7,595	459	19,239		16,620
South Dakota				13,875		
Tennessee		61,163	11,989	18,396	24,205	
Texas		329,795	694,337	823,732	3,118,013	199,087
Utah	950	3,000		366		
Virginia	17,233	50,000	1,638	15,750	75,809	
Vermont		11,254				
Washington		49,960		33,114	150,000	75,000
West Virginia				478	51,544	
Wisconsin	12,500	37,177	7,280	117,102	149,056	40,000
Wyoming			22,500	484	107,549	
Guam				12,000		
Puerto Rico		60,700	320,474	56,100		
Total	1,021,505	5,447,338	7,314,941	9,947,396	9,759,767	3,003,041

¹ Data from GMIS printout, incomplete for some States in fiscal year 1973 and fiscal year 1974.

NATIONAL CONFERENCE ON ORGANIZED CRIME

The Law Enforcement Assistance Administration is presently developing plans for an action oriented National Organized Crime Control Conference in cooperation with the Criminal Division, Department of Justice; FBI; Drug Enforcement Administration; National District Attorneys Association; National College of District Attorneys; and the National Association of Attorneys General.

The theme of the Conference is a status report on organized crime activity during the past decade and on Federal, State and local efforts to control organized crime. The Conference will be designed to update the Task Force Report: Organized Crime, issued by the 1967 President's Commission on Law Enforcement and Administration of Justice.

The Conference is presently scheduled to be held at the Mayflower Hotel, Washington, D.C., October 1-4, 1975. The format for the Conference will be similar to the National Conference on Judiciary and the National Conference

on Corrections, both sponsored by LEAA and held in Williamsburg, Virginia, in 1971. The National Center for State Courts was developed as a result of the National Conference on the Judiciary.

We have invited 441 participants representing a cross-section of law enforcement, criminal justice and public organizations whose support is necessary in controlling organized crime activity. Our tentative Agenda includes panel discussions, lectures, workshop groups and major addresses by prominent officials. A final report will be prepared based on Conference recommendations and will be published for national distribution.

To implement the Conference, a Policy Steering Committee was formed in December consisting of the Assistant Attorney General, Criminal Division; Director of the FBI; and the Administrator of LEAA to furnish overall guidance to a representative staff who are in the process of developing the Conference.

SURVEY OF PART C DISCRETIONARY FUND GRANTS FOR ORGANIZED CRIME PROJECTS—FISCAL YEAR 1969-1975

State	Intelligence related grants	Electronic surveillance equipment purchased	Special conditioned	Electronic surveillance/wiretapping
Alaska	None	None	Not available	Prohibited (1966).
Alabama	do	do	do	Prohibited—wiretapping only (19—).
Arizona	2 (\$197,786), fiscal years 1971-73.	\$16,148, fiscal years 1971-73.	Yes, fiscal years 1971-73.	Authorized (1968).
Arkansas	None	None	Not available	Prohibited—wiretapping only (19—).
California	5 (\$2,030,051), fiscal years 1972, 1973, and 1974.	\$98,596, fiscal years 1970 and 1973.	No, fiscal years 1970-72; yes, fiscal years 1973-74.	Prohibited (19—).
Colorado	7 (\$813,316), fiscal years 1970, 1971, 1972, 1973, 1974, and 1975.	\$36,293, fiscal years 1970, 1971, 1972, and 1973.	No, fiscal years 1970, 1971, 1972; yes, fiscal years 1973, 1974, and 1975.	Authorized 1963 amended 1969, 1972).
Connecticut	4 (\$488,539), fiscal years 1970, 1972, and 1975.	\$1,200, fiscal year 1970.	No, fiscal year 1970; yes, fiscal years 1972-75.	Authorized (1971).
Delaware	3 (\$325,024), fiscal years 1971, 1973, and 1974.	\$6,100, fiscal years 1971-73.	Yes, fiscal years 1971, 1973, and 1974.	Authorized (1973).
District of Columbia	2 (\$343,707), fiscal years 1972-74.	\$3,900, fiscal years 1972-74.	Yes, fiscal years 1972-74.	Authorized (1967).
Florida	12 (\$2,375,439), fiscal years 1969, 1970, 1971, 1972, 1974, and 1975.	\$44,769, fiscal years 1970, 1971, 1974, and 1975.	Yes, fiscal years 1969, 1970, 1971, 1972, 1974, and 1975.	Authorized (1969).
Georgia	4 (\$601,400) fiscal years 1971, 1973, and 1974.	\$11,000, fiscal year 1974.	Yes, fiscal year 1971, 1973, and 1974.	Authorized (amended 1971, 1972).
Hawaii	2 (\$519,194), fiscal years 1971-72.	\$3,879, fiscal year 1971.	Yes, fiscal years 1971-72.	Prohibited (19—).
Idaho	1 (\$48,017), fiscal year 1970.	None	No	Prohibited—wiretapping only (19—).
Illinois	4 (\$948,040)	\$31,500	No, fiscal years 1970, 1972, and 1973; yes, fiscal year 1974.	Prohibited (1961).
Indiana	3 (\$1,180,174), fiscal years 1970, 1972, and 1975.	None	No, fiscal years 1970, 1972, and 1975.	No legislation.
Iowa	None	do	Not available	Prohibited—wiretapping only (19—).
Kansas	3 (\$702,625) fiscal years 1971, 1972, and 1974.	do	Yes, fiscal years 1971, 1972, and 1974.	Authorized (1974).
Kentucky	2 (\$505,967), fiscal years 1971-73.	\$18,389, fiscal year 1973.	No, fiscal year 1971; yes, fiscal year 1973.	Prohibited (19—).
Louisiana	5 (\$1,274,728), fiscal years 1970, 1973, 1974, and 1975.	\$15,100, fiscal year 1975.	No, fiscal year 1970; yes, fiscal years 1973, 1974, and 1975.	Prohibited—except for law enforcement officers (19—).
Maine	None	None	Not available	Prohibited (19—).
Maryland	2 (\$376,146), fiscal years 1974-75.	\$35,139, fiscal years 1974-75.	Yes, fiscal years 1974-75.	Authorized (1956).
Massachusetts	7 (\$2,945,303), fiscal years 1969, 1970, 1972, 1973, 1974, and 1975.	\$25,690, fiscal years 1974-75.	No, fiscal years 1969, 1970, 1972, and 1973; yes, fiscal years 1974-75.	Authorized (1933 amended, 1959, 1968).
Michigan	10 (\$1,656,606), fiscal years 1970, 1971, 1972, and 1973.	\$3,750, fiscal years 1971-73.	No, MINT Project; yes, remaining projects, fiscal years 1970, 1971, 1972, and 1973.	Prohibited (1967).

State	Intelligence related grants	Electronic surveillance equipment purchased	Special conditioned	Electronic surveillance/wiretapping
Minnesota.....	2 (\$458,455), fiscal years 1971-74.	\$9,150, fiscal year 1974.	No, fiscal year 1971; yes, fiscal year 1974.	Authorized (1969).
Mississippi.....	None	None	Not available	No legislation.
Missouri.....	do	do	do	do
Montana.....	do	do	do	Prohibited (19—).
Nebraska.....	do	do	do	Authorized (1969 amended 1971).
Nevada.....	3 (\$894,738), fiscal years 1973, 1974, and 1975.	\$40,273, fiscal years 1973 and 1975.	Yes, fiscal years 1973, 1974, and 1975.	Authorized (1973).
New Hampshire.....	None	None	Not available	Authorized (1969).
New Jersey.....	5 (\$1,035,002), fiscal years 1970, 1972, 1974, and 1975.	\$16,933, fiscal years 1970, 1972, and 1975.	No, fiscal year 1970; yes, fiscal years 1972, 1974, and 1975.	Authorized (1968).
New Mexico.....	2 (\$260,569), fiscal years 1973-74.	None	Yes, fiscal years 1973-74.	Prohibited (1963).
New York.....	6 (\$1,289,294), fiscal years 1970, 1972, 1973, and 1974.	\$64,815, fiscal years 1970, 1972, and 1974.	No, fiscal year 1970; yes, fiscal years 1972, 1973, and 1974.	Authorized (1942 amended 1969).
North Carolina.....	2 (\$401,439), fiscal years 1972-74.	\$11,800, fiscal year 1972.	Yes, fiscal years 1972-74.	Prohibited (19—).
North Dakota.....	None	None	Not available	Prohibited (19—).
Ohio.....	5 (\$585,908), fiscal years 1972-74.	\$20,974, fiscal years 1972-74.	No, Columbus Organized Crime Unit, fiscal year 1974; yes, remaining projects, fiscal years 1972-74.	Prohibited (1970).
Oklahoma.....	None	None	Not available	Prohibited—wiretapping only.
Oregon.....	do	do	do	Authorized (1955 amended, 1959).
Pennsylvania.....	3 (\$968,395), fiscal years 1971, 1974, and 1975.	\$8,310, fiscal years 1971-75.	No, fiscal year 1971; yes, fiscal years 1974-75.	Prohibited (added eavesdropping 1975).
Puerto Rico.....	None	None	Not available	Prohibited (19—).
Rhode Island.....	3 (\$194,470), fiscal years 1970, 1971, and 1972.	\$18,608, fiscal years 1970, 1971, and 1972.	No, fiscal year 1970; yes, fiscal years 1971 and 1972.	Authorized (19—).
South Carolina.....	None	None	Not available	Prohibited eavesdropping only (1937).
South Dakota.....	1 (\$314,414), fiscal year 1975.	\$20,000, fiscal year 1975.	Yes, fiscal year 1975	Authorized (1969).
Tennessee.....	None	None	Not available	Prohibited—wiretapping only (19—).
Texas.....	3 (\$852,384), fiscal years 1970, 1971, and 1972.	\$22,424, fiscal years 1970, 1971, and 1972.	No, fiscal year 1971; yes, fiscal years 1970-72.	No legislation.
Utah.....	2 (\$299,573), fiscal year 1974-75.	\$3,500, fiscal year 1974.	Yes, fiscal year 1974-75.	Prohibited—wiretapping only (19—).
Vermont.....	None	None	Not available	No legislation.
Virgin Islands.....	do	do	do	Prohibited—wiretapping only (19—).
Virginia.....	1 (\$340,699), fiscal year 1975.	\$3,000, fiscal year 1975.	Yes, fiscal year 1975	Authorized (1973).
Washington.....	1 (\$49,965), fiscal year 1970.	None	No, fiscal year 1970	Authorized (1967).
West Virginia.....	3 (\$548,206), fiscal year 1970-72.	do	Yes, fiscal year 1970-72.	No legislation.
Wisconsin.....	1 (\$250,000), fiscal year 1975.	do	Yes, fiscal year 1975	Authorized 1969.
Wyoming.....	None	do	Not available	Prohibited—wiretapping only (19—).
Total.....	121 (\$26,074,973)	\$591,240		

AMENDMENTS TO TITLE I (LEAA) OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

THURSDAY, DECEMBER 4, 1975

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:40 a.m., in room 2228, Dirksen Senate Office Building, Senator Edward Kennedy presiding.

Present: Senators Kennedy (presiding) and Hruska.

Also present: Paul C. Summitt, chief counsel; Dennis C. Thelen, deputy chief counsel; and Mabel A. Downey, clerk.

Senator KENNEDY. We will come to order.

I first want to apologize to the witnesses this morning for the delay in getting started. We had two important votes dealing with the cloture vote on the Conrail proposal that is of great interest to the country in terms of revitalizing the Northeast Corridor and rail transportation. We are now on a cloture time limit which gives each Senator 1 hour to debate and a number of Senators have different amendments. So we may very well be interrupted during the course of the morning. It is rather extraordinary that they are meeting this early. Usually we start the debate around noontime.

I regret the inconvenience to the members and witnesses both in getting started and perhaps the interruptions as we move along. But I want to thank them for their patience and their indulgence.

Today the Subcommittee on Criminal Laws and Procedures continues its hearings into the proposed 5-year reauthorization of the Law Enforcement Assistance Administration. I am grateful to the chairman of the subcommittee—Senator McClellan—for agreeing to hold these additional hearings into the subject of urban court congestion and trial delay.

The record has already been made in these hearings that LEAA, in distributing billions of dollars to State and local governments since 1968, has woefully neglected the courts. The nation's soaring violent crime rate attests to LEAA's failures. No matter how many police patrol our neighborhood streets, no matter how many arrests are made, no matter how many jails are built, it is the courts alone that process both the guilty and the innocent and mete out punishment.

The fact is, however, that the courts—especially the trial courts in our large cities—are not performing their function well. Beset with mushrooming dockets and shrinking budgets, our major trial courts are dispensing stopwatch justice on overloaded assembly lines. Judi-

cial deliberation has all too often been replaced by judicial delay, plea bargaining and "revolving door" justice.

Criminals play the odds. Court congestion and delay encourage the criminal to violate the law, knowing that his chances of being caught, tried, convicted and jailed are slim indeed. Our existing criminal justice system simply does not persuade the offender that if he is caught, the chances are high that he will receive swift and certain punishment.

We are indeed fortunate today to have with us three witnesses who experience every day, in a firsthand way, the frustrations of our criminal justice system. Chief Justice McLaughlin, Judge Birns and Police Commissioner Codd, will, I am sure, articulate the problems which confront the courts in administering justice.

But these hearings have another dimension. In an effort to find out exactly how the street offender parlays court delay and congestion to his own advantage; how the system actually encourages the criminal to lead a life of crime; we will hear from two former offenders—men who have actually gone through the court system time and time again.

In addition, we will be hearing from one who is all too often ignored in any study of crime in American society—the victim of street crime. What the victim goes through in pursuing the case in court; how the victim suffers from trial delay; and how such delay provokes frustrations: this too will be discussed today.

These hearings will point out a major failure of the LEAA program in providing financial aid and technical assistance to the courts. Such aid in helping localities eliminate court congestion and delay must be given a new, high priority by Congress in reauthorizing the LEAA program. Only then can swift and sure punishment—indispensable prerequisites for attacking our intolerable crime problem—become a reality.

Our first two witnesses are Nathaniel Caldwell of New York City and Manson Marsh of Detroit. Mr. Caldwell was previously indicted for murder, plead guilty to manslaughter, and served 5 years in prison. Mr. Marsh is currently in custody at a halfway house in Detroit and has been convicted of 13 previous felonies.

I will ask you just to remain there for a few minutes. That is a vote and then we will come back and start with you, Mr. Marsh and Mr. Caldwell.

[Short recess.]

Senator KENNEDY. We will come to order.

Mr. Caldwell, do you have any comments you would like to make?

STATEMENT OF NATHANIEL CALDWELL, NEW YORK CITY, N.Y.

Mr. CALDWELL. Yes. The first thing I would like to say is that I am extremely pleased to be here to speak on this subject. I think certainly there are a great number of points to make.

Second, I would like to say that I am speaking on this subject from a dual experience. First, as an ex-offender, and second, as the Borough Director of a Court Employment Program in New York, as a member of the board of directors of the Fund and Committee for Modern Courts, and as a member of the advisory board of the court monitor-

ing project in New York. So that my experience within this system spans some 12 years.

What I would like to just generally say—before I talk about, I think, how the ex-offenders or how an offender going through this process view it—is to characterize the courts from my dual experience, that is, to explain that I think the congestion in the courts has led to what I believe is extremely excessive delays and the excessive delays are easily—have easily been used by anyone going through the process. In retrospect, I realize that I took a plea I think much too early in the game.

Senator KENNEDY. What do you mean by that?

Mr. CALDWELL. Had I held out long enough I am certain I could have gotten—could have plead to a lesser charge. I am saying that in respect to the fact that the delay is a part as I see it of a game. There are three things I believe cause delay.

I think, One: Legal procedures—that there are necessary delays because of constitutional laws.

Second: I think that the courts are run very inefficiently—that there certainly is not enough planning; certainly not enough management systems. A lot of recording systems are very antiquated and this creates a certain kind of delay.

Third: I think the delay is intentional and I say intentional certainly on the part of a wise defense attorney.

So that I would say that had I been able to hold out a little bit longer, I am sure my case would have been reduced.

One of the things I think happens in delay is the complaining witnesses just don't come back. I have a lot of associates that have experienced being able to delay a case in any kind of manner. When I say that, I mean you can call the lawyer and say you are ill so that the case gets postponed. In addition, papers have been lost in the court. Generally the attorneys on the case have so many cases they are working on that they are never prepared at any time to move to a trial, so that there is always going to be some kind of delay. If you as an offender understand this and if you can use it to your advantage, which, believe me, many people do, you attempt to delay the case as much as possible.

Now, there is a little small trick that I would like to tell you about in terms of delay. You can appear in court—one thing you don't want to do is get a bench warrant—inform your lawyer that you are there in the court. The lawyer can then know that if the case is called he can proceed. Then you can leave the courtroom, happen not to be there when the case is called, and the lawyer knows you are there, so the bench warrant might be stayed or the case may be put over for a second call.

I tell you if you are a complainant or a victim of a crime and you are sitting there waiting for something to go on and you find that the case is called early in the morning and gets a second call for the afternoon, you get a little upset. Not only do you have to wait there all day, and a lot of times complainants walk out, but this may happen time and time again. If the complainant is not there or if the arresting officer has to leave or if anything like that happens, then when you return you say: I was here. The case gets called again in the

afternoon. Someone else is not there. And now this case has to be postponed again and this happens continuously and I submit it is easy to happen because of the congested situation in the court, and because I think there is a tremendous amount of inefficiency involved in this whole process.

Now, again, I think because of the congestion and because of the delay and the use by all parties of this delay that plea bargaining, which is as I see it again from the offender's point of view and from the administrator's point of view in the court, has now become used strictly to expedite cases. It is used to move the cases. The Speedy Trial Act created a pressure in the courts, and mostly it is brought to bear by a judge, to move cases. In New York City you might have as many as 100 cases on a calendar and you can believe that when that calendar starts in the morning, and it is always late, that there is a pressure to move these cases, generally to dispose of them, and because of that, plea bargaining is just a way of production, moving the cases along.

If you begin to learn this, learn these various tricks, and these things are passed on—I mean, in the underworld so to speak, in terms of the grapevine in the streets, people will pass on information to one another, so that you begin to learn that if you are before a certain judge and he is kind of lenient, your chances to fare well are very good. If you can delay the case longer, the chances that it will be reduced are greater since everyone is going to plea bargain anyway, try to get the best deal you can, and I think that ultimately in many instances offenders that are repeaters, that go through and learn something about the system, begin to realize that it is all a game. It is not taken seriously. The courts for the most part in New York are in such poor physical condition, and there is such disorder. If you can imagine this hearing being held with people milling about, papers being shuffled back and forth, discussions being held, officers shouting for people to sit down, shut doors, if you can imagine all of this is going on while you are trying to listen and concentrate on what is happening with a case, then you can begin to see the disorder that prevails in the courts, so that if you are an offender and you are wise and you are capable, you are able to use all of this to your advantage.

I think that another thing I would really like to point out is that I believe that there are gross inequities in the system. I think that many offenders are very aware of that. When I say inequities, I am specifically talking about it seems that if you are held in detention, your chances of conviction are greater. It seems that if you are on bail you are liable to fare much better in the court's process. You are certainly able to prepare your case better and you can certainly use the delay process better.

If you are wealthy you can certainly afford a better attorney. Generally when you are poor you are going to receive a court attorney and you have no control over that.

In addition, there is a tremendous—

Senator KENNEDY. Is there a big difference in the quality of the attorneys?

Mr. CALDWELL. There is. I would say that there are good court-appointed attorneys and there are bad. But if you are poor and in

detention you don't have a choice. Even though you can dismiss your attorney you take a chance on getting another one that might be equally as bad. When you are paying for an attorney, certainly you have the choice in who you wish to have to defend your case. So, yes, I think that there are some problems with that.

In my case, for instance, I was assigned four attorneys. The four attorneys I saw approximately—I was held in detention for 1 year awaiting trial. The four attorneys that I saw—I saw two of them probably five times in the year. Most of those times they were there to tell me to take a plea to something. Generally it was to take a plea to something that inmates and the jailhouse lawyers had told me never to take a plea to because the chances of spending a great deal of time were greater if I took a plea to that. So my attorneys continued to pressure me to take a plea, and again I only saw them four or five times I think within the course of a year. So I just don't understand how they could have prepared the case.

We did eventually go to trial but I had no choice in that matter and there was no way I could say I don't know what these attorneys are doing, I don't know if these attorneys are doing a good job. I was young and didn't understand what was going on anyway.

I tell you, though, now that I do know, I would be in a much better position to know what they were doing, whether they were doing something in my best interests.

Senator KENNEDY. Let me if I could get to Mr. Marsh and then come back to you.

Mr. CALDWELL. Certainly.

Senator KENNEDY. Because there are some common themes we want to talk about, I would like to talk with Mr. Marsh.

STATEMENT OF MANSON MARSH, DETROIT, MICH.

Senator KENNEDY. As I mentioned earlier, I want to welcome you, Mr. Marsh, as well as Mr. Caldwell. I hope you feel completely relaxed before the committee. I think that you are probably aware from my opening comments what our interests really are—get a view of the criminal justice system through the eyes of the offender. So we are interested that you be as frank and as candid and as honest as you can be about some of your experiences and what the general feeling is of those who have been accused of violating the law.

Mr. Caldwell talked a little about delay. Can you tell me how you view delay or how is it viewed by those involved in crime?

Mr. MARSH. Well, from my point of view, delay is important mostly when you are out on bond, for the longer you delay a case as a rule the more chance you have of beating a sentence. There will be less publicity, you know, when the sentence finally does come. The longer the delay is, the less the sentence will be when you finally do get it. The less publicity, the older the case, the quicker they want to get it out of the way and in my case I used drugs and, you know, by being out on bond I was delaying the inevitable process of a withdrawal.

Senator KENNEDY. So your point is that it is pretty well understood within the criminal element that delay is to their advantage?

Mr. MARSII. Yes, it is.

Senator KENNEDY. What are some of the types of things you do to delay a case?

Mr. MARSII. Well, changing attorneys. I faked illnesses. I have had attorneys arrange for delay, you know, by their brief not being prepared. I paid lawyers money to get a postponement by saying that their briefs weren't prepared, you know, something of that order.

Senator KENNEDY. At the early stages when you go to court, for example, at the arraignment, does the criminal worry about jail or punishment? When does he begin to fear the possibility of punishment?

Mr. MARSII. Well, again in my case with the record that I had, I was pretty near certain that I would be punished in the end. I very seldom got probations up until—well up until lately, you know, the drug problem has been more publicized and judges have been more lenient on drug addicts. But—

Senator KENNEDY. Did you worry about spending time in jail?

Mr. MARSII. Yes, I worried a great deal. Like I said, it meant that I would have to go through withdrawal in jail.

Senator KENNEDY. What about your friends? Did they worry about punishment before they committed a crime?

Mr. MARSII. Well, I imagine that a lot of them, if there was a certainty of punishment, wouldn't have, you know, been as confident as they were but now I can only speak for myself.

Senator KENNEDY. Do you think it is much of an advantage or do your friends think it is much of an advantage if you are able to hire your own attorney. Are the chances of getting off, or beating the rap, better if you can hire your own rather than a court-appointed attorney?

Mr. MARSII. Yes, lawyer-judge relationships are important. You know, you can hire a lawyer that has some clout with the judge or has influence with prosecutors.

Senator KENNEDY. Some lawyers, you mean, know the judges better and know the prosecutor better.

Mr. MARSII. Right.

Senator KENNEDY. Would you agree with that, Mr. Caldwell?

Mr. CALDWELL. Yes, I would.

Mr. MARSII. Like State-appointed attorneys in my State are almost always in for plea bargaining and that is all. I mean there is no—they don't as a rule want to go through the lengthy process of jury trial. All they want is to get the case over with as quickly as they can.

Senator KENNEDY. What difference does the judge make? Did you ever find during your times in the courtroom that you would rather have one judge rather than another?

Mr. MARSII. Yes, judges in my city have a reputation for being either lenient or being harsh, and if it was possible, I would try to get my lawyer to arrange for a plea in front of a lenient judge

rather than before a judge that had a reputation for being hard, you know.

Senator KENNEDY. How does an offender react when he commits a certain crime, gets a certain sentence, and other criminal commits a certain crime and gets a different sentence? Does that happen very often?

Mr. MARSH. Yes, it does. It has happened to me.

Senator KENNEDY. Do you want to tell us about it?

Mr. MARSH. It is frustrating, especially if you know that influence played a part.

Senator KENNEDY. That what?

Mr. MARSH. That influence and money, you know, played a part in their getting a lesser sentence than you did. I mean, you know, him being able to hire a lawyer with influence, a better lawyer, you know, and maybe you had a State-appointed lawyer. It does create a lot of frustration.

Senator KENNEDY. What about your current case? Did you receive a different term than your associate?

Mr. MARSH. Well, yes. In my case, this case I am on now, I received probation and the codefendant in this case went to prison.

Senator KENNEDY. For how long did he go to prison?

Mr. MARSH. Three years.

Senator KENNEDY. Three years, and you got probation?

Mr. MARSH. Right. In my case it was because I——

Senator KENNEDY. Do you feel you were lucky or does he feel he was had, or what?

Mr. MARSH. Well, I feel I am lucky. I was released to a drug program. I am not living on the streets. I am living in a therapeutic community, synanon-type structure.

Senator KENNEDY. How do the criminals learn the tricks of the trade? Do they learn it from other criminals, learn it from lawyers?

Mr. MARSH. Well, not generally from lawyers. They generally keep that to themselves. Mostly from old-time inmates who have been through the court processes a lot of times. That is how I learned it.

Mr. CALDWELL. Senator, I would like to say on that subject that if you spend a great deal of time in court, just spend the time in court, you can learn what is going on. You can get someone to tell you what is what. I learned more just being in the courtroom than I did by not being there. That is to say, I think if you come back and forth; many, many, times, you begin to learn certain pieces of the process, certain procedures. I don't think that anyone, or not too many offenders know necessarily the insides, the in's and out's of specifically what is going on because both defense attorney and prosecutor use the same tactics, choose a certain judge, etc., and this can be confusing.

Senator KENNEDY. Let me ask you, Mr. Marsh, what did you think about when you were about to go out on bail? Were you able to get bail?

Mr. MARSH. As a rule, yes, I made bail. Well, as a rule, bail meant to me that I would be able to postpone my case longer, and as I said before, the older the case, as a rule, the less harsh the punishment.

And the more chance of manipulating. So like I always tried to stay on bail as long as I could.

Senator KENNEDY. Did you ever think about committing another crime while you were out?

Mr. MARSH. Oh, well, you see, I was a drug addict and as long as I was in the streets, I committed crime. When I was on bail or out on bail, I had to commit crime to support my habit.

Senator KENNEDY. Senator Hruska?

Senator HRUSKA. I have no questions, not having been here when the testimony was given. Sorry.

Senator KENNEDY. I want to thank you very much for your willingness to share these experiences with us. It is helpful to the committee. Thank you very much.

[Statement referred to follows:]

COURT EMPLOYMENT PROJECT,
MANHATTAN BOROUGH OFFICE,
NEW YORK, N.Y.

[Memorandum]

To: John L. McClellan, Chairman,
Subcommittee on Criminal Laws and Procedures
From: Nathaniel Caldwell, Borough Director,
Manhattan Court Employment Project
Subject: Urban Court Congestion (a Special Perspective)

The quality of the criminal judicial process has been deteriorating for many years. So much so that currently in large urban centers it is on the verge of total collapse. Cities like New York are plagued with an ever-increasing crime rate and with a less than effective system to handle it. The growing number of offenders being processed through the system have brought with them extremely high caseloads for parole and probation, overcrowding conditions in prisons and an overburdened, congested court.

Incidents have arisen out of these intolerable conditions that have acted as warning signals. Like a teapot that whistles when the water is ready, there have been large scale prison riots, children have been gunned down on the streets, accused charged with serious crimes have been back on the streets within hours of the arrest and then further implicated in another crime. All of these are indicators that the system is ready for an overhaul.

The general public in these large cities in both fearful and outraged. Most do not know what has gone wrong; many have opinions; all want something done about it.

Each aspect of the criminal justice system warrants special attention because each has its own special problems. However, it must be stressed that they all interrelate and solving problems in one area without equal attention to problems within the others would be useless. It would be like winning a battle but losing the war.

Today, I will address one aspect of the system—the Criminal Courts. This discussion will point out, as I see them, problems from both the perspective of an ex-offender and an administrator of a court project:

I submit to you today that the State Criminal Courts in this country are close to bankruptcy. They have and continue to contribute greatly to the increase in crime. In fact, the criminal judicial process is far from dispensing what might be termed "justice." If ever any institution desperately needed bailing out, it is our Criminal Court System.

One characteristic of the current court system is the massive overcrowding. There is a large backlog of cases and there is a never-ending inflow of new cases to the courts. This generally makes for calendars of 100 or more cases to be handled by one part. A substantial portion of these cases are offenses which may be classified as victimless, i.e. gambling, prostitution, public intoxication and possession of marijuana. These cases contribute greatly to the volume of cases that are processed daily by the Criminal Courts. They help to slow down the process, are often dismissed or thrown out, take up a tremendous

amount of time, cost a great deal of money and prevent the courts from addressing themselves more fully to the more serious offenses.

Another characteristic of the Criminal Courts is the delay in bringing cases to trial. Cases have been known to go on for months, sometimes years, before being resolved.

In my case, I waited one whole year, in detention, before I was brought to trial. Generally, when cases are postponed for months, the facts become blurred; witnesses become antagonized by many, useless court appearances; complainants give up, stop appearing, and ultimately, the cases are dismissed for lack of prosecution. (In New York City between January and July 1975, 44% of the Criminal Court cases were dismissed and 26% of the Supreme Court cases were dismissed.)

In analyzing this delay, my experience has led me to conclude that it is created by: a) legal procedures; b) inefficiency, and c) intention. The combination of this delay in disposing of cases and the influx of new cases is basically what has created the logjam. Since this process has gone on for years, the congestion has eventually reached unmanageable proportions. However, the passage of the Federal Speedy Trial Act brought pressure to dissolve backlogs and dispose of cases.

One way in which the courts chose to accomplish this reduction in backlogs was by extensive use of plea-bargaining, a third characteristic of the criminal court process. In fact, not only has plea-bargaining been used to reduce backlogs, but it has become a convenient way to resolve other inefficiencies as well, i.e., ill-prepared cases on the part of either and or both the prosecutor and the defense.

The judges, however, seem to be the actors most concerned with disposing of cases and initiate pressures to do so. Since one attorney (Legal Aid or Prosecutor) is often handling large numbers of cases at any given time and only has a few, if any well prepared, there is little resistance to enter into a plea-bargain. (Between January and July 1975, in New York City, 40% of all convictions in Criminal Court were plea-bargained and 63% of the convictions in Supreme Court.)

In my experience, both in my own case (in retrospect) and in my working knowledge of the courts, I've noted that plea-bargaining, for the most part, is used to expedite cases. Because of this, the results are sometimes without rhyme or reason. The case of John T., a 17 year old, with no home (parents deceased), no job and not attending school is a good example. John was arrested and charged with unauthorized use of a motor vehicle (a misdemeanor). He subsequently accepted a plea to a lesser charge (a violation) and was given a one hundred dollar fine!

There is a fourth characteristic that is readily visible when one enters the courtrooms. This is the general, poor, physical conditions of the courts and the general disorder that prevails. Although some court house are worse than others, there is one common problem that is equally manifest—the lack of order. For example, while cases are being heard before the bench (specifically in Criminal Courts), there is other business being conducted throughout the courtroom: There are various court personnel milling about and engaging in whispered conversations; there are court officers shouting out to spectators to be seated, to close the doors or to remove a hat; papers are shuffled around from court to court, sometimes lost in the process; it is very difficult to hear what is going on as most discussions are carried on between attorney and attorney and/or the bench, off the record; and, it is certainly difficult to understand what transpired.

In addition to the above, there are gross inequities ever present in the administration of the "Production Justice." Defendants out on bail seem to fare better than those held in detention. Wealthy defendants who have good, private counsel also tend to fare better than poor arrestees who have court appointed attorneys. There is a great deal of disparity in sentencing convicted offenders: Two defendants of the same background convicted of the same crime, will receive totally different sentences; while one may go to jail, the other may be placed on probation.

First offenders entering the courts are usually intimidated, apprehensive and confused. If the case is disposed of quickly, this experience is enough to deter some from further illegal activity. If the case is not disposed of quickly, it can lead to disdain and total lack of respect.

It does not take long for the astute, repeat offenders (there are many) to learn that the congested conditions that exist in the criminal courts can be used to their advantage. The criminal court process is often seen as a game. It becomes important to learn the rules and the players. Knowledgeable, repeat offenders and some first offenders play the odds right down the line and the odds are favorable.

I have associates that are extremely adept at manipulating the system and using it to their advantage. They can and have advised their lawyers in the handling of their cases—not on points of law but on “how to beat the beef.” They have been successful and as long as the courts are functioning in the manner they are, they will continue to be.

It will take a great deal to bail out this failing system but I believe that it can and must be improved. It is my opinion that so-called victimless offenses need to be evaluated and if found not to be criminal in nature, removed from the criminal courts. The Speedy Trial Act needs to be strictly adhered to by all parties and there should be some form of accountability established to insure this. Plea-bargaining, I believe, must exist, but there should be some form of control and accountability established. Some uniform point system needs to be established and enforced to cut down the disparity in sentencing. There should be substantial money allocated to the courts to improve its physical conditions and to improve its management systems. There needs to be more widespread development and use of diversion and intervention and, I believe, that there should be more public scrutiny of the courts. Projects such as the Court Monitoring Project in New York, which involves the citizenry in monitoring the courts, should be developed and maintained nationwide.

NATHANIEL CALDWELL,
Borough Director.

Senator KENNEDY. Our next witness will be Jane Huntington from New Jersey. Miss Huntigton was a victim of rape in Boston. The case was processed there. She can tell us of some of the frustrations and anxieties she felt. We appreciate very much your willingness to talk to us.

STATEMENT OF JANE HUNTINGTON, NEW JERSEY

Miss HUNTINGTON. Thank you very much. I am glad to be here. It is important.

I have a prepared statement.

Senator KENNEDY. Sorry you had to wait around here this morning.

Miss HUNTINGTON. Yes. Just like the court process, yes. [Laughter.]

I am going to have to read the statement because I can't remember it too well. So I hope it is all right.

I am here to testify as a victim of armed robbery and rape. I went through the criminal justice system and successfully prosecuted my assailants. However, I wish to address myself to some of the difficulties a victim of crime has in seeking justice.

In addition to the delays in the court process, there are other aspects that contribute to distrust or anxiety about the judicial proceedings.

A victim often has virtually no knowledge of how the criminal justice system functions. He or she is not aware of the steps involved, and at present, there is no one in the system charged with the responsibility of making the system clear to victims. The difficulties just in understanding the process can and often do undermine the de-

termination to go to court. A victim perceives a lack of interest in him and his case by court personnel: I think that is a reflection on the congestion in the courts. At the courthouse a victim is left to wait without explanation in the midst of a great frenzy of activity.

Once the assailants are apprehended and the victim has become a witness for the state, he finds himself caught up in the web of an adversary system over which he has no control. A crime victim has suffered an emotional and psychological crisis which is not alleviated by the knowledge that he is seeking justice. Rather, that crisis is intensified by the court process—by its confusion, its lack of explanation, its delays, not only of hearing and trial dates but also in the long waits in the courthouse—and by the knowledge that the defense will try to undermine the credibility of the witness.

Defense attorneys must discredit the testimony of the witness if they are to win for their clients. It may be more true in rape cases that the victim's character is being judged. It is important upon a rape victim to prove that she in no way "asked for" the rape. Even without prior knowledge of the criminal justice system and defense tactics, she quickly learns that in a peculiar twist, she is on trial as well as the defendants.

The court experiences are a consequence of an unsolicited, terrifying experience. Anger at the contradictions inherent in the system and at the seemingly uneven odds either frustrates or furthers a victim's determination to prosecute. I became very angry, though I knew I could blame no one but the defendants that I was in this situation. However, I felt that I didn't want them to beat the system. I wanted to beat it. It is a sad commentary, I believe, that a victim views the judicial process as a battle of wits rather than a quest for truth.

As I prepared for my day in court, I learned that the statistics were against me. At the time, the conviction rate for rapists hovered around an appallingly low 2 percent. The reasons why are what we are investigating. But it is easy to understand why victims, particularly of rape, without the concern and support of the courts, might despair of ever bringing their assailants to trial.

Another problem a victim faces is a lack of continuity. At each stage—the probable cause hearing, the grand jury and the superior court trial—a different district attorney is assigned to the case. While the defendants may confer with their attorneys from the time of arraignment through the trial date, a victim does not even know who the district attorney on his case is until just before the court date. It is notable, too, that both defense and prosecution are concerned with which judge they will go before, and too much is left to the discretion of judges in criminal proceedings.

I've hardly mentioned the delays, which I understand are the primary concern today. I think it is safe to say that each postponement makes the victim a little crazy. He must prepare himself each time he goes to court. In fact, he must "re-live" the crime. And he must also be prepared for the attacks by the defense attorney, whether the delays are caused by the defense or by scheduling difficulties, they serve to alienate the victim. The psychic cost of being prepared to testify is very high, and with each continuance a victim

feels betrayed by the system and also suffers an erosion in his confidence. The longer it takes to appear in court, the less sure of himself the victim/witness becomes and the more sure the defense is of their case.

The delays are absurdly inefficient. Not only must the victim appear at the courthouse for each scheduled hearing but so must the police involved. Obviously, these long waits remove them from their police duties. At superior court all the prosecution witnesses must appear and endure the waiting periods. Witnesses move, disappear, change jobs, or, not surprisingly, evade the authorities. It becomes a monumental task to finally gather all parties involved together to go to trial.

That my case was successful is a tribute to a police detective who worked long and hard to find my assailants and then to put the case together. Because of the nature of the law, he had to pay particular attention to legal technicalities that could cause complication or even dismissal. He took time to answer my many questions and to give me the confidence and strength to go through the ordeal of prosecution.

The district attorneys in the municipal and superior courts were both men of impeccable integrity. The superior court judge was known as a "no nonsense" judge. These people, my family and friends, and a psychiatric nurse who counseled me after the rape and robbery and through the trial, put a tremendous amount of work and energy into assuring success. Until even a month after the trial, my whole life was circumscribed by the enormity of the problem of being a victim in the criminal justice system.

It is within the power of legislators to examine issues raised in discussions of the judicial process and to make changes where they need to be made in order that there truly be equal justice under the law. Many applaud your investigation and hope it is the beginning of serious reform of the courts.

Senator KENNEDY. Thank you very much for your statement.

Let me ask, having gone through the very extensive ordeal which you have gone through, would you do it again?

Miss HUNTINGTON. That is a very difficult question. It would depend first of all on the police. In my case the policeman was very good, took right over, won my trust, and because of him——

Senator KENNEDY. What is the name of the officer?

Miss HUNTINGTON. Detective Rufo. Boston Police Department.

Senator KENNEDY. I think that is very reassuring.

Miss HUNTINGTON. It is. It is really the police responsibility to win the trust of the victim right away, I think.

Senator KENNEDY. Do you know of any of your friends that have had similar experiences, been victims of crime?

Miss HUNTINGTON. Not a friend but I met the victim of my same assailant at the court when we were to view a lineup, which we never did view, and she refused to go through the prosecution because she didn't trust the system. She refused to have her privacy invaded again and again and she simply said no, she wouldn't prosecute. It would be too difficult.

Senator KENNEDY. Can you tell us a little about the delays? You talk about the delays. Could you elaborate on that; how many times you went to court?

Miss HUNTINGTON. Yes; my incident happened in Boston, and I moved back to New Jersey, so I was told to come back to court for a probable cause hearing. I came back to court several times and was told to go home at the end of the day. This happened twice.

Senator KENNEDY. Twice.

Miss HUNTINGTON. Twice, and we went to court on the third day. The judge had ruled he would honor no further postponements. I don't know why. And then the grand jury. The only problem with waiting on a grand jury is that you go and sign up very early, sort of first-come-first-served. You go into the courthouse and wait, and wait, and wait. Once you sign in that you are there, you wait until it is your turn to go into the grand jury room. For the superior court we had, I believe, three postponements.

Senator KENNEDY. Three postponements?

Miss HUNTINGTON. Yes.

Senator KENNEDY. And then you had the trial.

Miss HUNTINGTON. Then we had the trial.

Senator KENNEDY. Now, were you intimidated while you were in the courtroom?

Miss HUNTINGTON. Yes, I was, by the friends and family of the defendants. There were three defendants and they had a large group of supporters—friends and family—who were very close to me and made verbal threats.

Senator KENNEDY. And what was done about this?

Miss HUNTINGTON. Well, at the trial level I was removed to an office on another floor and just left alone by myself. It was very difficult to be—

Senator KENNEDY. What about the costs? Were you working then?

Miss HUNTINGTON. I was job-hunting when the incident happened and then I wasn't able to get back to working for 4 or 5 months.

Senator KENNEDY. You had your goods taken in the robbery; is that correct?

Miss HUNTINGTON. Yes, I did.

Senator KENNEDY. How long ago was the robbery?

Miss HUNTINGTON. Two years ago November.

Senator KENNEDY. Have you gotten your things back yet?

Miss HUNTINGTON. No. They only found a few things and I still don't have them back.

Senator KENNEDY. Why haven't you gotten them back yet?

Miss HUNTINGTON. Because the defendants are involved in other cases and those cases are still pending. I believe they are pleading guilty now to some of the other charges against them.

Senator KENNEDY. What kind of advice would you give to other victims of crime?

Miss HUNTINGTON. That is a toughie. I would like to see a system where victims would be encouraged to prosecute but at this point I would not advise going through the system unless there were dramatic changes made. It is so very, very difficult to prosecute.

Senator KENNEDY. You mean despite being victimized in a most cruel and savage way, and being robbed, and having gone through the system yourself, you still wonder in your own mind whether it was really worthwhile?

Miss HUNTINGTON. The only reason I can say it was worthwhile in my case is the defendants were given very severe sentences and they are off the streets, but it consumed all of my energy for a year at least. And there is no great feeling of victory after having done it. My feeling after it was all over was that I beat the system, and that is a terrible way to feel. It would be very difficult to advise anyone to go through it unless they had the really good support that I had.

Senator KENNEDY. What would you like to see done to change the system?

Miss HUNTINGTON. Well, first of all, I would like very much to see the provision in the court system for better victim care. The lack of knowledge, the confusion, the incoherence of the whole system is so confusing to a victim. There is no one in the system charged with explaining what is going to happen, the process. Even a police detective as competent as Detective Rufo doesn't have the time—he has got so many responsibilities—to really take one step by step through the process, to help ease some of those fears that one has. It is a very formidable institution, the criminal justice system, and I think right there we need to have some—a new look at what victims' needs are if they are to prosecute.

Senator KENNEDY. Were you aware of the games that were taking place in the courtroom?

Miss HUNTINGTON. I became aware of them as I became a student of the criminal justice system. I knew nothing before I was a rape victim. I mean when I was victimized I knew nothing, but I learned very, very quickly.

Senator KENNEDY. What did you learn?

Miss HUNTINGTON. Well, I learned about plea bargaining. I learned about some of the things the gentlemen were speaking about earlier. I learned about the incredible defense tactics; how the defense seems to have the edge in being able to delay, and delay, and delay, while a victim wants to get it over with; and knowing that you may not go to trial for a long time after the incident is very frustrating, very infuriating.

Senator KENNEDY. How long did it take from the time you were victimized to the time you actually went to trial?

Miss HUNTINGTON. Seven months, incredibly speedy. Why, I don't know. But I believe again there were discussions going on that I didn't know about.

Senator KENNEDY. I suppose that during the process you must have given some thought to giving up, didn't you?

Miss HUNTINGTON. Indeed I did! yes. A lot of times I did. And it is hard to say why I did finally go through with it. I guess I put so much energy into it and I knew other people had worked very hard; yet I did want to give up many times.

Senator KENNEDY. What was the punishment, do you remember?

Miss HUNTINGTON. Yes. Each defendant got three life sentences, two to run concurrently and one on and after, and one of the defendants got two additional sentences, smaller sentences.

Senator KENNEDY. They are eligible for parole?

Miss HUNTINGTON. In about 30 years.

Senator KENNEDY. Senator Hruska?

Senator HRUSKA. Miss Huntington, you have described and testified to a most distressing situation, not only in the nature of the offense but also the events that followed it. We here in the Congress, however, find ourselves somewhat limited in what we can do. Where was the trial held that you have just described?

Miss HUNTINGTON. In Boston—Suffolk Superior Court.

Senator HRUSKA. In a State court? It is a State court; is it not?

Miss HUNTINGTON. Yes, yes.

Senator HRUSKA. Well, we do not have any jurisdiction in Massachusetts as a national government over conduct of that kind and over State offenses. So we find ourselves a little bit at a disadvantage to try to do something about it.

Have you been called upon to testify before any legislative committee of the Boston legislature?

Miss HUNTINGTON. No, sir; I have not.

Senator HRUSKA. Or before any other agency of the State government?

Miss HUNTINGTON. No. Once I spoke to a group of police officers who were being trained to be more sensitive in responding to rape cases. That is the only—

Senator HRUSKA. You have referred to the fact that there comes a realization during the course of the trial that the victim is really placed on trial.

Miss HUNTINGTON. Very much so.

Senator HRUSKA. That is because the proof that she must produce as to her previous sexual conduct and also to rebutt the possibility of consent being given to the act.

Miss HUNTINGTON. Yes.

Senator HRUSKA. We have pending in the Congress before this committee a bill which modernizes considerably that rule of law. It is no longer required under the proposed bill, which is known as S. 1, that the testimony of the victim be corroborated. That is the present state of the law.

Miss HUNTINGTON. Yes, I know. I have seen changes made in that area and I am glad.

Senator HRUSKA. The subcommittee has reported that bill to the full committee and, in so doing, has taken cognizance of the very point you make, namely, that it is not fair to put the victim on trial.

Miss HUNTINGTON. No, indeed.

Senator HRUSKA. It is not necessary, therefore, in the view of the bill that there be corroboration of the testimony of the victim. Do you think that would be a step forward if applied to Massachusetts law?

Miss HUNTINGTON. Oh, absolutely. Absolutely. It is a big step forward, yes.

Senator HRUSKA. We had excellent testimony here from both attorneys and professors of law which laid a good foundation for that change and a recommendation that it should be made in any number of the States. I don't know how many States, if any, have corrected that particular law. We are trying to do that on a Federal level. I would hope that something could be done generally in the States.

Miss HUNTINGTON. Yes, sir.

Senator HRUSKA. But under our system of government, that type of offense is, in the main, within State jurisdiction. I hope you can see our difficulty.

Miss HUNTINGTON. Yes, indeed.

Senator HRUSKA. But the point you make is well taken, and I hope we can bear it in mind when we put our bill into final form. It must be difficult for you to appear here. I want to join the chairman in thanking you for your testimony, however, and your contribution to the record.

Miss HUNTINGTON. Thank you.

Senator KENNEDY. I will just mention a final point. We have expended about \$4.1 billion of your taxpayers' funds to try and do something about crime in this country. Obviously the Nation's court systems are primarily local in nature. But we can through Federal incentives and other Federal resources, try and influence the States to be more effective and more efficient. LEAA, the Law Enforcement Assistance Administration, which we are considering, has the potential for providing such incentive, and I believe that there should be much greater Federal initiative in the area of crime so that we could avoid much of the delay which you have outlined here. We can provide some assistance. The real question is, at least in my mind, whether we ought to be doing something about the courts or buying more police cruisers. I think your testimony has been very powerful evidence of the importance of trying to strengthen the court systems of the States, remembering that the States which have special responsibilities in this area. But LEAA can provide initiatives, helping the State court systems become more efficient and effective, encouraging other States to modernize their courts as well. We will be hearing from others on that.

Miss HUNTINGTON. I would like to make one more point that wasn't in my statement—there are children victims of crimes who must go through the same court process with very, very little acknowledgment given to their age or to the particular difficulties that children have in going through the court system, and that is a whole other area that is tremendously important, I think.

Senator KENNEDY. Well, I think that is a very helpful comment. I think your testimony has been very powerful, and most disturbing. I find most challenging, both as a resident of Massachusetts and also its representative in the Senate, the response you gave to the question about whether you would go through it again, the pause which you gave in responding, I think it is a fearful indictment, of the whole process, and I think this is something we have to take notice of and try and find ways both at the State and Federal level, to remedy this situation. I want to thank you very much.

Miss HUNTINGTON. Thank you.

Senator KENNEDY. I hope you can remain during the course of the hearings.

Miss HUNTINGTON. Oh, I will. I would love to very much.

Senator HRUSKA. Mr. Chairman, I would like to make this additional comment. I think the chairman is right, that the situation is a dire one. You have described it very well from the standpoint of an

individual. Very shortly we will hear from the chief judge, Judge McLaughlin, in which he will outline in very condemning fashion the other evils and shortcomings of the court system.

It is said, of course, and truly, that in the last 6 years or so, LEAA has dispensed nearly \$6.5 billion of Federal money—your money and my money as a taxpayer. Of course, that doesn't tell the whole story and if we were to stay in order to provide adequate funds to the courts in Nebraska or Massachusetts we should increase that \$6 billion to \$26 billion, it still wouldn't tell the story for the simple reason that during those 6 years that the LEAA disbursed \$6.5 billion, the entire criminal justice system in America disbursed over \$75 billion. So there is only a very small fraction of the moneys that are distributed by LEAA in the cost of the criminal justice system, and its administration, which has to be borne by the local authorities. And I don't know of any way, of course, that even if we doubled the amount of LEAA, how that would be enough to change the court system in any particular State. There would be more dollars available, but it would still be for the State to say we want more judges, we want different laws, we want this, or that, or the other thing, and I think when Judge McLaughlin comes and testifies we will explore that point just a little more.

Miss HUNTINGTON. Thank you.

Senator KENNEDY. Well, you don't need to be caught in between the differences between my good friend and colleague, the Senator from Nebraska, but one of the things that we want to make sure of is if we are going to be voting \$6 billion trying to do something about the problems of crime, that we make sure we are spending it in a way that is going to make some difference.

Miss HUNTINGTON. Exactly, exactly.

Senator KENNEDY. I mean \$6 billion—we hear the voices of anguish about whether we are going to provide loans to New York City and whether we are going to provide loans to the Northeast Corridor, but here we are talking about \$6 billion and it makes no sense to be spending it in ways that cannot really make a difference, and that is what we are doing.

Miss HUNTINGTON. Exactly.

Senator KENNEDY. We don't want to catch you in the middle of our differences.

Miss HUNTINGTON. No, I don't want to be in the middle.

Senator HRUSKA. The chairman is very gracious and, of course, I am sure he and I both agree that we don't quarrel with the facts. The facts are there: \$6.5 billion. But there are additional facts. We say we want to spend that money more intelligently, more effectively, and then we find another fact and that is whatever money is spent by way of a block grant in Massachusetts in Federal tax money is spent by Massachusetts authorities, so it is not we who are running the system. It is the Massachusetts authorities, you see, and that is where the chairman and I keep going back and forth, and we have a lot of fun doing it and if the situation, the subject, were not so serious, we might make light of it, but it isn't funny.

Miss HUNTINGTON. It is very serious.

Senator HRUSKA. It is a very, very difficult subject to deal with.

Senator KENNEDY. All right.

Miss HUNTINGTON. Thank you.

Senator KENNEDY. I have response but I will wait.

[Laughter.]

Thank you very much.

We are delighted to have a distinguished panel of judges, Walter H. McLaughlin, presently chief justice of the Massachusetts Superior Court, a statewide court of general jurisdiction. Prior to assuming the office of chief justice, Judge McLaughlin was an associate justice on the Massachusetts Superior Court.

The Honorable Harold Birns is an eminent justice of the New York State Supreme Court for the first judicial district. Prior to Judge Birn's election to the supreme court he was an assistant district attorney under District Attorney Frank S. Hogan.

Judge McLaughlin, we will hear from you.

STATEMENT OF HON. WALTER H. McLAUGHLIN, CHIEF JUSTICE OF MASSACHUSETTS SUPERIOR COURT; ACCOMPANIED BY HON. HAROLD BIRNS, NEW YORK STATE SUPREME COURT

Judge McLAUGHLIN. Mr. Chairman, members of the committee, I would like to make an overall statement that I think will help our problem. Massachusetts has 45 associate justices in the courts of the general jurisdiction and 1 chief justice. It serves 6 million people. We have 1 judge for an average of every 125,000. The national average is 1 judge for every 75,000, and the evolving standard in judicial circles is 1 judge for 50,000 people to adequately dispose of the business of the people.

Now, the backlog of cases, civil and criminal, that is facing our court is staggering. As of June 30, 1975, we had pending and untried indictments and appeals totaling 38,933 criminal matters. On the civil side of the court I had pending 89,990 civil jury and jury-waived cases ready for trial. That is a total backlog of 128,923 civil and criminal matters. That is an individual caseload per judge, including the chief justice—and I also have to run the court administratively—of 2,800 cases per judge. That is intolerable. This month I have ready for trial today in Suffolk County 65 first-degree murder cases and I have 8 criminal sessions running constantly. Any capital case will take a week. There are pending in Suffolk County altogether over 100 and throughout the Commonwealth 250 with new indictments coming in faster than we can process the older indictments. Even in Barnstable County on the calm and peaceful shores of Cape Cod, I had to assign myself last month to try three first-degree murder cases which had reached the point that they either had to be tried or they were subject to dismissal for failure to provide a speedy trial. And now we try them back to back and they are almost as common as rear end collisions.

Now, how do you move this volume of business? Well, I have the philosophy that with the violence and the crime on our streets and in our homes and the peace and safety and tranquility of the entire population of Massachusetts at stake, it is my absolute obligation to move the criminal business even at the expense of the civil business.

If I had the alternative of trying defendants or freeing them, and that is the alternative we face, I have the firm policy of trying them. Ten years ago I devoted 25 percent of the judges of our courts to trying criminal cases. Today I assign approximately two-thirds of my entire bench to sit in criminal sessions. This is inevitable because first-degree murder cases are not our only brush with crime. We have rape, we have robberies, we have aggravated assaults, we have had all the violence and crime that is the curse of America today and it is the No. 1 domestic problem facing this country today.

Senator KENNEDY. Tell us, Judge, why do you think the legislators are so slow in responding to these particular needs?

Judge McLAUGHLIN. Well, primarily and officially it is a question of money, priority on the tax dollar. Health, education, and welfare come first. The ill must be clothed. The hungry must be fed. The mental must be cared for. And the priorities of the judicial system are left at the bottom of the totem pole.

Senator KENNEDY. Well, if you take any kind of a survey, I think up our way, probably pretty well across the country, economic issues— inflation and unemployment—are terribly important, but obviously crime has to be at the top of any kind of a national survey and you make such a compelling case in terms of the importance of strengthening the court system and improving it and the impact this could make in the safety and the security of the people. I am just wondering why we can't get greater support for it. Why is it that we just can't develop the understanding of this issue which you understand so well.

Judge McLAUGHLIN. LEAA will not fund judges in judicial positions. LEAA couldn't create them. They have to be created by the legislature. For 10 years in Massachusetts we had a Republican Governor and a Democratic legislature and they never got together to agree politically on increasing our bench. We now have a Democratic Governor and a Democratic legislature and we have had untold deficits and we had to float bonds to pay current deficits, with a new tax program of \$400 million, and the courts and new judges—that is the last place the legislature is going to spend money, and I have appeared before committees time and time again constantly this year and the money is not there to be spent.

How could LEAA assist in that area? I assume you can't create judges but you could fund magistrates in Massachusetts like we have in our regular U.S. District Courts and they could dispose of all the pretrial matters that consume so much time and could help on constitutional issues and leave the judges free to try cases. As far as LEAA is concerned, let me say that we have a—

Senator KENNEDY. Would that make some difference? Would that make some difference up our way?

Judge McLAUGHLIN. That would free up all the time the judges now spend on pretrial matters, on arraignment, setting of bail, identification, search and seizures, things of that sort.

Senator KENNEDY. OK. What happens when you make a recommendation through the LEAA in the State to get resources to do it?

Judge McLAUGHLIN. We get voted down 37 to 3.

Senator KENNEDY. How is—

Judge McLAUGHLIN. We have a Governor's committee of 40 people appointed by the Governor—the executive branch. We have three judicial representatives, one for the Supreme Court, one for the Superior court, one for the District courts. The district attorneys are all represented and they do pretty well at the prosecution level with the Federal LEAA money and have many programs which have been very beneficial. The courts get nothing but here and there a little administrative help; and the money in LEAA is allocated by intercommittee politicking, primarily to police, and to every foolish insane theoretical program you can possibly imagine by theorists who come up with what should be done on rehabilitation of the criminal, law reform groups and the like. With all the money spent on police we still have the basic statistics that they caught 24 percent of all the people who committed crimes before they got the LEAA dollars and they don't catch any more now. So LEAA has not aided the criminal problems which we have in Massachusetts.

Senator KENNEDY. Why don't the courts get more? You only have three members in our State.

Judge McLAUGHLIN. It is appointed by the Governor and that is all we are entitled to.

Senator KENNEDY. Don't you think we would be much better off if the money came in block grants to the community, if it came into the cities rather going through the States? Do you have any views on that?

Judge McLAUGHLIN. I think if you sent it through to the cities that you will more or less compound the problem.

Senator KENNEDY. I wonder if it went directly into the judiciary—

Judge McLAUGHLIN. If it went directly into judiciary and directly to the police maybe we could cure a lot of the problems. At the present time we have a \$13 million grant, a bloc grant, approximately, and it is just like bargain day at a Turkish bazaar, dividing up the grants and those with the most pressure make out the best.

Senator KENNEDY. We had testimony from Chief Judge Heflin who is a very, very capable judge—you may be familiar with him—from Alabama.

Judge McLAUGHLIN. I am indeed.

Senator KENNEDY. And a very distinguished man. He commented as you have about this sort of logrolling of LEAA money, logrolling not only with the committee itself but also between the legislature and the committee and the interference from members of the legislature in the workings of this committee. What sort of logrolling do we have up our way?

Judge McLAUGHLIN. Well, Senator, let me give you a birds-eye view of it. The pet project of the LEAA and the Criminal Justice Committee is the Criminal Justice Information System, the State-controlled computer compiling of statistics of all types concerning people before the courts, and ultimately tied in with a national computer where these statistics can be exchanged all over the country almost simultaneously, probably at the FBI level. I don't know how much money in discretionary grants they have spent on that. They

have spent over \$2 million out-of-bloc grants. It is dependent upon the records in our probation department. That is the heart and soul of it, criminal offender record information, and the legislature created a criminal history system board which seeks to completely take over our probation department which is a part of the judicial branch of government. So at the very outset we fly right into the face of the Constitution's separation of powers and the court cannot succumb to executive direction. So CJIS will never get off the ground.

As a result, LEAA won't finance the computerization of our probation files; and while they won't finance it, they are spending \$35,000 a day to put on tapes the criminal defender records information starting currently and going back. So we have tapes which are going to change constantly, which are costing \$35,000 a day, with no computer to use them in, and unless we solve the constitutional problem we face and unless we get a national computer and a State CJIS system it is money wasted and that is the pet project of LEAA in Massachusetts.

Senator KENNEDY. Now, you go on in your testimony to describe what LEAA has done in terms of the courts last year and this year. Do you want to touch on this point here?

Judge McLAUGHLIN. Yes; last year we had 5.9—5 percent of the bloc grants were allocated to the courts and this year it has been reduced to 2.9 percent. If you don't think there is a little politicking in that—we needed \$50,000 a year to get invitations to bid to put in a data control criminal case management system where we could find out where every case was, where every defendant was, where every lawyer involved was, assign a trial and avoid the plague of continuances. Our judicial department refused to succumb and turn over all our judicial records to the executive branch to be put into a data control computer, and as a result of that, the local committee cut out the \$50,000 we need this year to go ahead with the criminal case management system and that is pure and simple retaliation.

Senator KENNEDY. What is wrong with us up in Massachusetts?

Judge McLAUGHLIN. I think the same thing is wrong with LEAA grants all over the country. I attend seminars all over the country with superior court judges. It is the prime source of bellyaching and complaints. The courts get little from LEAA. It goes to police, prosecutors, and I think prosecutors make good use of it in Massachusetts but I am not so sure about all the pet projects that all members of that 40-member committee bring in and spend money on. We have lawyers representing the defendants on bail but we have a project that will run \$100,000 a year to put lawyers in the jail to make sure the defendants know about their bail appeals. Just a duplication and waste of money. But that will get priority.

We spend the money on drug rehabilitation centers, and I don't say it is wasted but it isn't controlling crime.

Senator HRUSKA. Would the Senator yield?

Judge, you have been asked what the LEAA has done for the judges and for the courts. Is it your understanding that the LEAA would give these funds that are distributed by them on a bloc grant

basis to the courts directly or is it your understanding that money from LEAA goes to the State authorities for distribution pursuant to a State plan for law enforcement?

Judge McLAUGHLIN. That is precisely what it is at the present time. It is a bloc grant to the Governor's committee appointed by the Governor which controls the grants.

Senator HRUSKA. So when you didn't get the \$50,000, there was some distribution of it that was at the hands of the State planning agency, was there not?

Judge McLAUGHLIN. You were absent from the room, Senator, when I said the State committee is composed of 40 with three representatives of the judicial branch of government, everyone with a pet project, and we get outvoted 37 to 3.

Senator HRUSKA. Is the judiciary represented on the State planning commission?

Judge McLAUGHLIN. It is; each court has one representative.

Senator HRUSKA. And do you participate in it?

Judge McLAUGHLIN. We participate, yes.

Senator HRUSKA. And is your complaint that the portion devoted to the courts and to the judiciary is insufficient?

Judge McLAUGHLIN. I think money is always insufficient. I don't have any such thing as a surplus of money, Senator, but in Massachusetts for the projects that we would like to use it on, yes. I would love to get my hands on \$250,000 to complete the computerization of our central probation files. We are one of the few States in the country that has a central computer file. We have 5 million current records going back to 1916 when it started. We must have a million current records. We handle them manually at the present time and I can't get LEAA or the task force in Massachusetts to give me the money to computerize that file unless we agree to put the entire judicial branch of government, and our files on probation into the national computer, into the CJIS, State computer first, and then ultimately tied up with the national computer, and we run at the threshold into the grave question of privacy and the criminal history systems board, which is the agency that is running this information computer system, insists on having the management tools within the court system on a public computer spread that far throughout the Nation. And the judicial branch of government won't do it and we are at an impasse.

Senator HRUSKA. Is that \$250,000 a request made from the bloc grant funds or is it discretionary funds?

Judge McLAUGHLIN. From the bloc grant funds.

Senator HRUSKA. LEAA has no control over that, do they? What does the State Planning Agency say to your request for \$250,000? Did they grant it or did they reject it?

Judge McLAUGHLIN. They rejected it.

Senator HRUSKA. What has LEAA got to do with that rejection?

Judge McLAUGHLIN. It is no responsibility of LEAA as such. I though you were interested in how does LEAA operate. Well, that is how it operates. If it suggests anything to me, and it should suggest it to the committee, it is how should the LEAA be revamped so as to be more effective. It can be done a whole lot better than it

is being done now and this is the time and place to try to find out how to do it better. And one way I suggest is make a direct grant to the courts and we don't have to beg, borrow, and steal from the central committee which is antijudicial from the word go.

Senator HRUSKA. If there were direct grants to the courts, I suppose the police departments of the several cities in your State would also ask for the same privilege. Would that be a good idea?

Judge McLAUGHLIN. Well, what is sauce for the goose is sauce for the gander, but they don't need it as direly as we need it because the police get grants.

Senator HRUSKA. When the police come before us, that is not what they say. They say we are getting more dollars but we need them. The courts don't need it as much as we do. We have to catch the criminals before the courts go into business.

At any rate, if the LEAA law would be changed so that the money would go directly from Washington to the courts I presume the police then will come in and say we want the money to come directly from LEAA in Washington to our police departments, and then the corrections will come in and they will say we want to deal directly with Washington.

Judge McLAUGHLIN. Well, I don't see anything the matter with that. You are going to eliminate politicking and logrolling you now have which has made LEAA money so ineffectual and wasteful.

Senator HRUSKA. You know, your Honor, we tried the other system one time and it completely broke down and we found as a matter of congressional policy—now maybe we are mistaken and that is why we are having these hearings. Maybe we are mistaken. Maybe we should abandon the bloc grants system and have each police department and each court system come up here—that would be quite a few hundred applicants to be cooling their heels over in the reception room of LEAA—and take their turn to be heard on the basis of whether they need \$250,000 or \$2 million \$500,000 or whatever. You see, that systems has been tried. But it kind of broke down, so much so that the Congress as a national policy decided we cannot sit in judgment on these requests for funds within States. We don't know the countervailing equities. We will pay it to the State and the State will make its own distribution through a comprehensive State plan.

Judge McLAUGHLIN. I don't—

Senator HRUSKA. It comes to only 5 percent of the total budget you see.

Judge McLAUGHLIN. I don't fault you at all, Senator, on what you say. All I do say is what you have been doing has not worked.

Senator HRUSKA. LEAA has been obeying the law by distributing funds to the States through the formula set forth in the statute. Now it is up to the States to make that distribution and if there is any complaint about the distribution, it should go to the State planning agency.

Now, if there is a better way of doing it, we would like to hear from you, because we don't know of any better way.

Judge McLAUGHLIN. Speaking for the judicial system, and I assure I am not conveying to you a personal gripe of Massachusetts, I am

sufficiently knowledgeable nationwide with the judiciary and LEAA as to how it works. As far as the judiciary nationwide is concerned, I just echo today their sentiments.

Senator KENNEDY. Judge, as I understand our function as legislators, we find areas where there has to be a response to need. We ought to be able to be sufficiently imaginative and creative in trying to address these areas of need. We have been dealing with LEAA for 6 or 7 years and if we find out that the courts are not getting the kinds of resources, I don't see why we have to continue a process or a system that, for whatever reason, is not going to insure that they are going to get that assistance.

Now, I don't know what other system has been tried and failed that Senator Hruska has been talking about and I'm not as convinced as he might be that the police chiefs, and everybody else will be in here asking for money. It does seem to me that if we have something that isn't working and we have an area of need as you have identified here in terms of delay and the need to modernize our various court procedures, the issue is not to perpetuate a system that is going to continue these problems but to try and find ways and means of meeting the problem. I think that is part of our challenge and that is the way I look at it. I know that there are others that look at it differently.

Judge McLAUGHLIN. That is as I see it. If we do anything today, let us learn from the mistakes of the past.

Senator KENNEDY. I want to hear from Judge Birns if I could—let me just ask you what is the impact of delay in the judicial system? We have heard from our first two witnesses how delay works to the advantage of the criminal and we have heard from the victim about how delay dissuades them from participating in the criminal justice system. I would be interested in your view from the point of view of the judge.

Judge McLAUGHLIN. The impact of the delay in the criminal justice system is something that nobody thinks about. It isn't the victim who is referred to as the forgotten citizen. It is the honest, decent, law-abiding citizens of this country, the people who go to work every day, who support their families; the businessmen who have to have recourse to the court; and the bankers; the wronged and the injured; and the net result is they don't have a civil forum. Why don't they have a civil forum? Because we have to devote the entire resources of the court to the lawless. It is a sad commentary that the lawless have the first demand on the court resources and they have got to have it if we don't want to continue the crime and the violence on our streets.

I have sat on a case where I had an executor of the plaintiff suing the executor of the defendant—both dead—and I couldn't help but think that they could better try and dispose of that case before a better judge in life hereafter, if they both went in the same direction.

Massachusetts has six of the counties in the nation with the greatest civil delay, as high as 66 months. The result on the criminal side is they are released on bail; they are on the streets; and 40 percent of our crime is caused by people on bail with too low, too liberal bail

laws. I have tested it. In New Bedford I had the summer coming on. It was reported to me that crime was being committed by people on the streets awaiting trial on cases we wouldn't reach in court for months and months and months. So I assigned three special sessions down there. We have a statute which says we must try the people in jail. I decided to try the people on the streets and I did during May and June. That summer, I reduced the violence and crime in the streets of New Bedford 40 percent.

Now, what does that teach us?

Senator KENNEDY. Forty percent. What does that teach us?

Judge McLAUGHLIN. That teaches us if you want to control a great bulk of crime, you have got to have a speedy trial. There has to be the certainty of punishment. We can't give speedy trials and the States do not have the means or the money to remedy the ills of the court system at all of its levels. If Federal money is going to come to the States, I think it ought to come to the courts because at the arrest system or at the parole system—and there are evils on both ends that must be cured—the heart and the core and the lifeblood of the criminal justice system is the courts.

Senator KENNEDY. Speedy trial and sure punishment.

Judge McLAUGHLIN. That is right.

Senator KENNEDY. Do you agree with that, Judge Birns?

Judge BIRNS. I do indeed, and I associate myself generally with the remarks of the chief justice. Delay inevitably defeats justice. In New York, we have examples of that every day.

Senator KENNEDY. Can you just elaborate on that?

Judge BIRNS. Well, you can't get a defendant to trial, because there are always defendants to be tried in advance of the one before you. The police are reacting to the public clamor for action and there are more arrests made than the judicial pipeline can swallow. Since the objective in any court is to give a fair, dispassionate, objective hearing, unhurried, delay will always serve those who are guilty.

Senator KENNEDY. Is plea bargaining a problem?

Judge BIRNS. Plea bargaining is the result of delay. Judge McLaughlin spoke about the alternative between trying a defendant or freeing him and he prefers to try them. I agree. But unless you have some degree of plea bargaining, the entire judicial machinery will grind to a halt.

Senator KENNEDY. Now, this is a very central point, this kind of delay—if you both agree about the importance of a swift trial and sureness of punishment. What is the condition generally across the country on this question about delay? I mean, is this just a problem that we are facing in Massachusetts or in New York or is this a problem which is generally confronting the Nation?

Judge McLAUGHLIN. We are facing them every place and the prosecutors around the country are all going into plea bargaining and I think it is a disgrace. I think it is a disgrace that our courts, which were ordained for only one purpose, to do justice, that we have to bargain with the lawless to stop the courts from falling into chaos and collapse, and pay them with the only thing we have to pay them with, and that is time.

Senator KENNEDY. Well, what do we do in Massachusetts, Judge? Judge McLAUGHLIN. I don't have plea bargaining. I refuse to assign a judge to bargain with the criminal. I think there are two sides to the coin of justice. One of them is society and society is entitled to due process. I think what we are doing in plea bargaining tatters and destroys the very fabric of all of our freedoms. I think it prostitutes justice itself and I cannot reconcile myself to have government buy pleas from guilty defendants and confess an abject failure of the criminal justice system and our inability to give them a constitutional trial. That is the last stage of the criminal justice system in my opinion.

Senator KENNEDY. Well, now, if we have major crime in the urban areas of this country—we have it obviously increasing in some of the suburban areas as well—what is the delay that exists in those particular court systems generally around the country? As I understand, it is approximately a year. Is this so? What can you tell us about the kinds of delay that exist nationwide? The major kinds in urban areas? Is this a problem? That is what I am interested in.

Judge McLAUGHLIN. It is a problem and the problem is that we takes cases out of an assignment session and stack them up for a trial session; and we have 8 or 12 cases stacked up and nobody knows how long the case ahead is going to take. We have witnesses coming back to court day after day, we have police coming back, and pretty soon they get disgusted and discouraged and they don't bother coming back. Witnesses become disgusted with the delays and inconvenience and pretty soon they become completely disinterested in becoming involved or immeshed in the criminal justice system. They don't report crimes, so they won't have to be witnesses. This infects public opinion to the point that the public has lost complete confidence in the criminal justice system.

Senator KENNEDY. That is a major problem and we always hear that one of the real keys attacking crime is the support of the local citizenry and what you are talking about here, as we heard from Miss Huntington earlier, is how the local citizenry has been disillusioned by the whole system.

What I would like to hear from Judge Birns is what is the practical effect of this delay? If we recognize that the delays are generally pretty uniform—they vary by a few months, but generally are pretty uniform in the major urban areas of this country—what is the practical effect of this delay, Judge Birns? I touched briefly upon what happens to those on bail. We heard one of those earlier today, about how they go out and commit crime even when they are on bail. Can you talk to that issue?

Judge BIRNS. I can, with respect to defendants who are in prison. If the delay in bringing the defendant to trial is protracted, a re-application for bail will be made. Where there may have been agreement that bail was reasonable in the first place—even though the defendant is incarcerated—the effect of that would be to fix a bail which might be considered unreasonable. The defendant, even with a long lengthy record, would be put out on the street, and as Justice McLaughlin stated, before not too long he is back in the judicial criminal machinery again.

With respect to the defendant before you, there is always an opportunity to "settle the case," which is another term for plea bargaining. No judge that I know wants to have—to give away the courthouse, but sometimes there may be a justifiable feeling that in view of the plea given a defendant, the courthouse indeed was given away and the interests of the community in due process have been neglected or ignored.

Senator KENNEDY. What is the situation with regard to the district attorney in New York? Are they understaffed?

Judge BIRNS. The district attorneys are very much understaffed. I have my own recollection of the staff under District Attorney Frank Hogan when I was there which was before the cases of *Mapp v. Ohio*, and the other cases which superimposed upon the States the necessity for hearings directed to allegedly illegal seizure by the police of property and confessions and contested questions concerning identification. Since those cases, we find that more hearings are required and there are insufficient numbers of prosecutors to handle the matters within the court. It sometimes occurs and frequently, I may say, the judges compete for a particular district attorney to be before a particular court. The staff is short, and I do believe that it should be augmented in every possible way because the district attorney really initiates the criminal prosecution in the superior court or the supreme court where I sit.

Senator KENNEDY. Does the criminal understand that, Judge?

Judge BIRNS. No question about it. You had testimony here today from the first two witness and from the lady about her day in court—which serves to prove a defendant's education as to the pitfalls, the vagaries or advantages which can be found in the criminal justice system. Many defendants believe that they are more knowledgeable about criminal procedure law than the attorneys who had been assigned or even retained to represent them.

I have just finished a case where a defendant before me on a charge of rape—and I may add he was also convicted—went to the jury with his fifth attorney on this charge. The defendant refused to take the advice of the four lawyers in sequence to negotiate a plea. To his surprise he was convicted, even though he was dictating the kind of defense which was interposed.

Senator KENNEDY. Judge McLaughlin, what do you mean by "sure punishment?"

Judge McLAUGHLIN. I mean by that the certainty that there will be a trial within a reasonable period of time and if he is guilty he will be punished.

Now, how do the defendants play the system? On any list on any major county in Massachusetts you will find cases continued from 12 to 27 times for one reason or another. The principal problem is because the sessions are filled; and it is sinful to have lawyers and witnesses and police waiting around that long, sometimes as long as a month, to actually start a trial. Then the witnesses don't come back. Then the defendant's attorney is engaged elsewhere and the result is the cases go month after month without being reached. I can pick up any criminal list or sit in any criminal session and I can find two to three to four additional crimes by that defendant while

he is on the street awaiting trial on the indictment before the court, and then the district attorney says, we might as well wrap everything up at once and for a half dozen major crimes we will give one sentence and one punishment and he walks out.

If you don't call that beating the system, I don't know what else it is. I am sure that lawyers get paid retainers, those who are busy and can plead engagements, for the sole purpose of how long he can keep a defendant on the street. He is certainly going to the can but the lawyer will guarantee him a year on the street.

Senator KENNEDY. Well, you talk about a defendant receiving a firm and unalterable minimum sentence.

Judge McLAUGHLIN. I think our parole system is disgraceful.

Senator KENNEDY. Do you think it ought to be minimum?

Judge McLAUGHLIN. I think it ought to be minimum sentence and he should be compelled to serve the minimum sentence before he is eligible for parole.

Senator KENNEDY. What is the situation on overcrowding in our prisons?

Judge McLAUGHLIN. Well, in Massachusetts we are overcrowded in every institution and overcrowded to the point that in some of them our inmates are sleeping on the floor and we take the people who are in State prison and send them out to forestry camps for the sole purpose of making a bed for a new admittee to the State prison. Charles Street jail, our holding center for short term convictions, is being closed by a Federal court. We destroyed the wing at Concord which held 1,200 beds and which has never been rebuilt. Walpole, our principal State institution, is within 90 beds of capacity.

You say well, maybe you have no place to sentence him. Well, we do sentence them but they move them out at the correctional level. They move them out by early parole, superintendents recommending parole to get rid of them and make room for a new bed, and if that is the reason that permeates parole, and I am certain it is—I have heard correction officers testify to it in my State—then it is high time we do away with parole.

Judge BIRNS. May I just add some figures which I just obtained in response to your query about the effects of delay. We want a prompt trial before a court of any defendant indicted. Consider this, if you will. In New York County in the Supreme Court in which I sit now, there are 1,658 bail defendants awaiting trial. At the same time there are 1,120 prisoners awaiting trial, 305 of whom I charged with homicide.

Now, there isn't such a thing today in our county as a short trial. It sometimes takes a week or two to pick a jury. What do you do with those that are still in the pipeline? That is our dilemma.

Senator KENNEDY. Judge Birns, you have other points in your testimony.

Judge BIRNS. You asked me, Senator, before about the shortage of staff in the district attorney's office and I think that is the most critical deficiency. I have a great many points here but I think that the problem which is imposed upon the courts—superimposed upon the courts—by virtue of the required hearings under the constitu-

tion, could be met if we adopted or if there were adopted in the prosecutors' offices and in the legal aid offices "discovery" where all essential elements or information pertaining to the case were exchanged. Perhaps—I don't want to go into too many details—standards for the expenditure of LEAA funds could be conditioned upon a program for "discovery." If information were interchanged between contestants and adversaries, it might in a very substantial way eliminate the need for required hearings.

Senator KENNEDY. These points that you make here this morning, I think very persuasively, are again common to the Nation. You talk obviously from the vantage point of New York and also of Massachusetts, but I wonder if these are the same kinds of problems that we are facing nationwide. Is it your impression—you are both men of very considerable distinction who obviously are students of this problem—is this really a nationwide problem?

Judge McLAUGHLIN. I have personal knowledge that it is, Senator. I am a member of several national judicial societies and conferences and these matters are the subjects of our seminars. We swap problems and we pick each other's brains on how to solve them.

Judge BIRNS. The law reviews also will fortify the view that it is a nationwide problem.

Senator KENNEDY. Well, this is certainly my understanding and belief and it is a problem that is getting even more difficult and is becoming worse. If we are talking about what effort the United States can make, at the national level, to try and do something about crime in this country, and try to make the system work, we ought to be sufficiently imaginative to be able to structure a law that is going to be able to give you some effective support. I am not nearly as sanguine as some about the general record that has been made by the LEAA in trying to provide important assistance to local communities to help them effectively meet the problem of crime. As you are all very well aware there has been a great deal of rhetoric about the whole war on crime, the whole law and order syndrome; the question is what can we effectively do to solve the problem of street violence which is of such importance.

Judge McLAUGHLIN. I just want to say within the last few years, Senator, we have established the National Center for State Courts at the suggestion of Chief Justice Burger and I think it is the greatest thing that has ever happened to States because we can get centralized research and valuable assistance in areas in which the court needs assistance and where we cannot get State money to pay for it. I think if funds were submitted on a direct grant to the National Center for State Courts which is hard up because the funds and the philanthropies have dried up with the inflation and economic depression which we have been through, and it is an excellent organization which is of assistance in every State in the country and at least at a unified and central national level we would have assistance with the National Center of State Courts in many areas that would help court administration. I don't believe it can pinch the criminal or punish him but at least it would facilitate the administration of the court system itself.

Senator KENNEDY. As I understand, you want us, in attempting to

deal with this, to fashion a legislative remedy that would provide some direct support for the courts.

Judge McLAUGHLIN. I do. I don't where the answer lies. I can't give you a blueprint.

Senator KENNEDY. That is right.

Judge McLAUGHLIN. All I can tell you is, we can no longer be subject to the log rolling and politicking and bargaining of a State agency to distribute the funds with the competing interests that want the dollar and have any of it spent effectively and most of it is spent ineffectively.

Senator KENNEDY. In that particular process of log rolling, Judge, as I understand—does that happen in New York too, Judge Birns?

Judge BIRNS. Yes. Perhaps not as dramatically as the chief justice has mentioned but the courts have been shortchanged. We don't have the complementary personnel to move a case through with rapidity. We are short of funding for court reporters, for security officers, for corrections officers.

Senator KENNEDY. We have one further witness. I am going to have to go over and vote now. I don't know whether Senator Hruska—do you have to go? Maybe you could just remain here and see if Senator Hruska has any final questions. We have one final witness I want to give some time to. So if you could just stand by. It shouldn't be more than just a few minutes. Could you just stand by and then we will go to Chief Codd.

Judge McLAUGHLIN. Yes, indeed.

Senator KENNEDY. We will recess just briefly.

[A short recess was taken.]

Senator HRUSKA [presiding]. The subcommittee will come to order. The chairman is in the chamber taking care of some official business. He asked me to resume the session here and to ask such questions as I might have for the two present witnesses and then call on the Commissioner for his testimony.

Judge McLaughlin, as I understand it, your point is—and I noted with a great deal of almost distress—that in 1975, 5 percent of the block grant funds were allocated to court administration but that was out 42 percent for the current fiscal year.

Judge McLAUGHLIN. That is right.

Senator HRUSKA. That represents quite a dollar cut, doesn't it? In dollars what is that, do you recall off hand?

Judge McLAUGHLIN. I would say 42 percent of \$300,000 for the entire—

Senator HRUSKA. How much—

Judge McLAUGHLIN. \$300,000.

Senator HRUSKA. Was any reason assigned for that?

Judge McLAUGHLIN. I can tell you what I believe to be the reason, and not only do I believe it to be the reason but it is echoed by the chief justice of our supreme court who wrote in the same vein. The judicial branch of government and the committee on probation has refused to give to the criminal history systems board that is running the criminal justice information system for the State the detailed statistics of the operation of the judicial branch of government and private information about criminal offenders, even juveniles, that

they are not entitled to and they insist we are going to give it to them. It is holding up their computer which is their pet, if I may use that expression. How much money they sent out of that discretionary grant nobody knows. The discretionary grants are a mystery around Massachusetts, at least. Nobody knows where they come from or how much or where it goes. As a result of the judicial branch not doing that, we had applications for \$250,000 to put our probation system, our central probation system under computer and for \$50,000 this year to continue to get bids and have a computer control criminal justice management system to move into the 20th century with data control, and that was killed and I am certain it was killed because the judicial branch of government wouldn't buckle under and turn over a lot of private judicial statistics to be put into a computer which may ultimately be tied up nationwide. And as a matter of fact, they have said if you want your computer, let it be a part of our system. Feed all your information into the State computer and then we will give you back what we think you are entitled to.

Well, they are not going to do that with the judiciary in Massachusetts—period—if we live without a dime from them from now on.

Senator HRUSKA. Now, you have discussed the lack of judge power in Massachusetts and you have not had a new judge for how many years?

Judge McLAUGHLIN. Since 1968.

Senator HRUSKA. 1968. How many additional judges would you need on a workable basis?

Judge McLAUGHLIN. Well, I haven't done—

Senator HRUSKA. Have you made any calculations?

Judge McLAUGHLIN. Well, yes; I have it down statistically and I have the supporting figures. I need today 19 judges in order to stay current with the criminal business and to have civil business reasonably current within 5 years.

Senator HRUSKA. How many have you now?

Judge McLAUGHLIN. I have 46 judges.

Senator HRUSKA. Forty-six, and you need 19 more?

Judge McLAUGHLIN. I need 19 more.

Senator HRUSKA. There are three vacancies. Are those included in the 19?

Judge McLAUGHLIN. No. No. I need 19 in addition to that. Los Angeles County, which is the same population as the State of Massachusetts, has 134 judges doing the work that 46 judges on my court do.

Senator HRUSKA. Have you any idea what that additional cost will be for the 19 additional judges?

Judge McLAUGHLIN. Yes, I do.

Senator HRUSKA. What is it?

Judge McLAUGHLIN. Approximately \$600,000 for judges. Nineteen times \$36,000, if my arithmetic is half way accurate, and some backup personnel in support. I would expect for \$1 million we could put 19 judges on.

Senator HRUSKA. What is the procedure in your State? Do you transmit to the legislature a budget request on behalf of the court

system? Or is that budget request or appropriation requested through the Governor?

Judge McLAUGHLIN. No. We submit through the legislature.

Senator HRUSKA. And then you appear there in justification of your request.

Judge McLAUGHLIN. Yes, we do.

Senator HRUSKA. And you have done that in recent years?

Judge McLAUGHLIN. We do it every year.

Senator HRUSKA. Every year, an annual exercise.

Judge McLAUGHLIN. Not only—after submitting it, we politick and nurse it and pet it and beg and crawl to finally get it.

Senator HRUSKA. And what is their answer?

Judge McLAUGHLIN. Their answer is that the people can't stand any more taxes, they can't spend any more money, and our judicial branch of government takes one-half of 1 percent, 1 penny out of every tax dollar. That is what our judiciary gets from the State. And there is no interest in the problems of the judiciary unless it hits home. There is no sex appeal in judicial reform. Either you have got to be an innocent defendant, crying for a trial and in jail and you can't get it, or waiting 6 years for a civil trial and have your witness die before the court has any interest to you.

Senator HRUSKA. And you indicated that there are 6 of the 12 counties in the Nation where the delay in reaching the civil trial is the greatest. That is the tabulation you made.

Judge McLAUGHLIN. That is right.

Senator HRUSKA. The backlog.

Judge McLAUGHLIN. That is right.

Senator HRUSKA. It would seem that other States are making some provision which makes their situation less stringent than yours. Are their legislatures a little more generous or are they a little more resourceful, do you think?

Judge McLAUGHLIN. I think legislatures generally are penurious with courts as I listen to other States. I think other jurisdictions are entering into plea bargaining and wholesale dismissal of criminal indictments that I won't do in Massachusetts. The result is I have taken civil judges to try criminal cases and my civil backlog has increased necessarily.

Senator HRUSKA. And what is your suggested remedy for this situation? With the legislature not giving you any more money and your need is as great and it is growing year by year, what is your suggestion?

Judge McLAUGHLIN. We are not going to get it from the States. We are just not going to get it, at least in Massachusetts, now or ever in my opinion.

Now, I don't know whether Federal funds can fund judicial positions, and probably not, but assuming you could fund them for a term of years, a period of 5 years, or give me magistrates to back up my judges, in that way I think we would be able to move a great deal of business that is now resulting in increased backlogs. I don't think computers are going to try defendants in my honest opinion. It takes judges to try defendants.

Senator HRUSKA. I have before me the amounts that have been disbursed by LEAA starting in 1970, fiscal year 1970. It was

\$4,897,000 in 1970. Fiscal year 1971, \$9,932,000. Fiscal year 1972, \$12,694,000. Now, mind you, all these amounts are action money, not planning and not discretionary funds but action money.

In fiscal year 1973, \$14.5 million. And so—and for fiscal 1974, the disbursement has been \$12,500,000.

Now, that is in addition to any additional discretionary funds which are not computed in these amounts.

Well, now, what is your idea? If that were doubled, would that help your situation in Massachusetts and their courts? After all, we couldn't increase the number of judges, could we?

Judge McLAUGHLIN. No, I know you can't. That is why I say I can't give you a blueprint. All I can say is that the criminal situation in this Nation is a national illness. National illnesses cannot be solved at the city, State, or municipal level. They have to be solved at the national level and if you will pitch in and help New York in its financial difficulties, and that is local to New York, I don't know why we can't find some way with the ability and desire of the Congress to tackle a national illness throughout the Nation. And I think that is what we have to do.

Now, how to do it I don't know by way of blueprint. All I know is it needs money. It is available only at the Federal level. You are rewriting legislation which was well intentioned over a period of 5 years and did a lot of good in a lot of places but now we know the leaks. We know where the loopholes and the faults lie. Let's do something so that national funds and the energy and direction of Congress can tackle the national crime problem of this country before it consumes us and destroys us, and it will soon.

Senator HRUSKA. Well, of course, we have always functioned in American on the basis that law enforcement is the chief responsibility of State and local authorities. If the Federal Government is going to move in and pay for local and State law enforcement, who do you think is going to lay down the conditions for their functioning? Wouldn't it be logical to assume that the man who pays the piper will call the tune? Doesn't that generally follow?

Judge McLAUGHLIN. Absolutely. Absolutely. I couldn't agree more.

Senator HRUSKA. Well, that is one of the things that is facing this subcommittee and the committee and the Congress.

Judge McLAUGHLIN. Well, we have to give it some thought. The money is being spent with good heart, good purpose, and good intentions but it isn't producing the result. You are giving the patient the wrong medicine. You have been giving him an aspirin; he needs an antibiotic. Find out what antibiotic is going to hit him and let's prescribe it.

Senator HRUSKA. Well, unless we change the law which gives that money to the State for the disbursement pursuant to their State plan, there is no solution that I can see from the Federal level.

Judge McLAUGHLIN. I see nothing sanctified about the law as it is or as we have exemplified it. As I said—

Senator HRUSKA. Well, it might not be sanctified but it surely has had the overwhelming vote of the whole House and the Senate and it might not be sanctimony but it is pretty realistic, but that is a matter of policy for the Congress to decide.

Judge McLAUGHLIN. We are at the threshold of a new deal right now with the bill before Congress and I report to you honestly from the judicial branch of government I think nationwide, which is I think the heart and blood of the criminal justice system, how it has affected us and what little good it has done. If it doesn't do what it is supposed to accomplish, let us do it another way. That is what I say.

Senator HRUSKA. Of course, even if the money from the Federal sources was increased greatly, you still have within Massachusetts plea bargaining and the bail business the lack of proper sentencing and no speedy trial, and so on. We would have to look to Massachusetts to make those corrections wouldn't we?

Judge McLAUGHLIN. You would have to look to Massachusetts; yes. I think the only place you can help us is with your dollars. I think the rest of our problems lie at the State level.

Senator HRUSKA. What would you think of a plan saying we will give the State of Massachusetts *x* million dollars if they make these reforms and show their good faith in executing them? Would that help any?

Judge McLAUGHLIN. I would bless you for it. It would be——

Senator HRUSKA. Do you think they would take hold of it?

Judge McLAUGHLIN. It would be pressure on them that no one else——

Senator HRUSKA. That is on the basis that the Federal Government would pay the entire cost of the addition, is that right?

Judge McLAUGHLIN. That is right; yes. It would be pressure on State government that we can't collectively and unorganized exert but if there were dollars at the end of the string, that pressure can be exerted.

Senator HRUSKA. For those of us who are representing 50 States and not only one, I imagine we could expect to hear from some of the 50 States who are taking care of their own problems. They would say, now, what gives here? We are taking care of our own problems and we are enforcing the law. We have no backlog, or very little. Now, then, having done that, we will be asked to spend part of our Federal tax dollars to help Massachusetts with its court system.

What kind of answer, if you were a Senator, would you have to that type of an argument?

Judge McLAUGHLIN. That is a question that can't be answered fairly, Senator. That is why you are a Senator, to answer those questions.

Senator HRUSKA. I see. Well, we are being faced with not a comparable situation but one that is somewhat like that in the case of the bill that is before the Senate this afternoon.

Judge McLAUGHLIN. Yes, I agree.

Senator HRUSKA. Well, thank you both for coming and giving your testimony on this subject.

Judge McLAUGHLIN. Well, I just hope to be helpful, that is all, Senator.

Senator HRUSKA. Well, you gave us some thoughts which round out a description of a pretty bad situation.

Judge McLAUGHLIN. Yes, indeed.

Senator HRUSKA. Thank you for coming.

Judge BIRNS. Thank you, Senator.

[The statement referred to follows:]

STATEMENT OF WALTER H. McLAUGHLIN, CHIEF JUSTICE OF THE
SUPERIOR COURT, COMMONWEALTH OF MASSACHUSETTS

Mr. Chairman and Members of the Committee: I am the Chief Justice of the Massachusetts Superior Court. It has 45 Associate Justices and one Chief Justice. It is the great trial court of the Commonwealth with unlimited jurisdiction, civil and criminal. It serves approximately six million people in Massachusetts. That is one judge for approximately every 125,000 people and if not the lowest certainly one of the lowest judge-per-capita ratios in the entire nation. The national average for a court of general jurisdiction is one judge for every 75,000 people; and there is an evolving standard that there should be one judge for every 50,000 people. It is a circuit court and sits in all of the 14 counties of the Commonwealth. Judges sit either criminally or civilly by my assignment.

The backlog of cases, civil and criminal, facing our court is absolutely staggering. If we are not drowning, we certainly are clutching at straws. Paralysis of our judicial system is avoided only by the industry and the dedication of an able group of talented judges. As of June 30, 1975, there were pending and untried indictments and appeals totaling 38,933 criminal matters. On the civil side of the court, I had pending 89,990 civil jury and jury-waived cases ready for trial. That is a total backlog of 128,923 civil and criminal matters. That is an individual caseload per judge, including the Chief Justice—and I have to run the court administratively—of 2800 cases per judge. It doesn't decrease. It has increased steadily, year by year, by a strong percentage of 5-7%.

This month I have ready for trial in Suffolk County 65 first-degree murder cases. I have eight criminal sessions in Suffolk County. Any capital case will take at least a week to try. In addition to the cases ready for trial, there are over 100 capital cases pending in Suffolk County, and new crime and new indictments are coming faster than we can dispose of them. Pending throughout the Commonwealth are a total of 250 first-degree murder cases, not only now but at any given time. In Barnstable County, on the calm and peaceful shores of Cape Cod, I had to assign myself last month to try three first-degree murder cases which had reached the point that they either had to be tried or they were subject to dismissal for failure to provide a speedy trial.

How do you move this volume of business? I have the philosophy that with the violence and crime upon the streets and in our homes, and with the peace and safety and tranquility of the entire population of Massachusetts at stake, it is my absolute obligation to move the criminal business even at the expense of the civil business. If I have the alternative of trying defendants or freeing them, and that is the alternative, I have the firm policy of trying them. Ten years ago, only about 25% of the judges of our court were devoting their time to trying criminal cases. Today I assign approximately two-thirds of my bench to sit in criminal sessions. This is inevitable because first-degree murder cases are not our only brush with crime. We have rape, we have robberies, we have aggravated assaults, we have all the violence and crime that is the curse of America today and it is the No. 1 domestic problem facing this country today.

Moving the criminal business cannot help but have its victims. I am talking about the real forgotten person in our judicial system, and he is not the victim of crime—although the victim of crime is often referred to as the forgotten citizen. The forgotten citizen in Massachusetts is the lawful, peaceful, every-day, average American who tends to his business and supports his family, who unfortunately has civil business in our courtrooms. It is the

businessman, the banks, the wronged, and the injured who are entitled to a civil forum to receive the mandate that our Constitution guarantees to them, namely Article 11 of our Declaration of Rights which provides in substance that ". . . every subject of the Commonwealth ought to find a remedy in our courts completely and without denial, promptly and without delay, conformable to law."

Every day I enter upon my duties as Chief Justice I violate the Constitution and the oath of office I took which mandates me to provide sessions of court sufficient to dispose of the business of the people, civil and criminal. In Massachusetts it cannot be done. It is a sad commentary that so heavy a percentage of our judicial resources has to be devoted to the criminal. It is sad to contemplate that the lawless, those who outrage society, those who trample the rights of decent citizens underfoot, it is sad to contemplate that the lawless have the first call on the services of the court. The result is inevitable. The citizens of Massachusetts are being denied a civil forum; the pathway to the courtroom is not only too long, it never ends. Many of our people never get there because death takes them first. Delay has become an integral part of the practice of law just as much so as the rule in *Shelley's* case.

Massachusetts has the unfortunate distinction of having within its boundaries six of the 12 counties in the nation where the delay in reaching a civil trial is the greatest:

Middlesex County (Cambridge and Lowell) is the slowest in the nation with 66 months delay.

Norfolk County (Dedham), the second slowest with 60 months' delay;

Hampden County (Springfield), the fifth slowest with 47 months' delay;

Suffolk County (Boston), the ninth slowest with 42 months' delay;

Essex County (Lawrence and Salem), the tenth slowest with 41 months' delay; and

Worcester County (City of Worcester), the twelfth slowest with 40 months' delay.

Every other county has at least 36 months' delay in civil matters. I personally have presided over civil cases where both parties were dead and their executors were suing each other. I could not help but think that the original parties could better try or settle their cases in the hereafter and before a better Judge, provided they both went in the same direction in the life hereafter.

Massachusetts has not had a new judge since 1968. There have been three vacancies in our court dating back to May, August, and October which still are unfilled. I am constantly besieged by district attorneys and law enforcement agencies to provide additional felony sessions. There is no way that I have found how to run a session without a judge; in order to provide the necessary criminal sessions, I am constantly closing civil sessions, robbing Peter to pay Paul, with inevitable further delay on the civil docket. Judges of our court sat all last summer to dispose of 42 first-degree murder cases then pending in order that these cases would be behind us when September rolled around and we would not be drowned by the flood of indictments resulting from summer crime. I am always cognizant of the fact that criminal business must be moved; crime must be controlled; it must be contained or it will surely consume us. But if in the process we trample and destroy underfoot the basic civil rights of all the law-abiding people of the Commonwealth, certainly the precious guarantees of the Bill of Rights and our Constitution to all our people become nothing but pious mouthings to be parroted by school children on the Fourth of July which will exist in name only on a piece of dried parchment under glass on the Freedom Train.

The judicial branch of government is the stepchild of society. The court and its needs stand at the bottom of the totem pole of priority on the tax dollar. Court reform has no sex appeal; it doesn't even have popular support, unless it happens to hit home and a civil litigant is denied a courtroom or an innocent victim is unable to have a trial. The state budget of our Commonwealth this year is \$3.43 billion. The judicial portion of the budget is \$18.9 million dollars, slightly more than one-half of one percent—less than one penny out of each tax dollar. Counties pay approximately 76% of our state judicial budget. Even if we consider the combined state and local

budgets for the entire judicial branch, every court at every level including probation, the judiciary spends only about 2.6% of all state revenues.

Lest it be misunderstood and without elaboration, LEAA has been of little assistance to the Massachusetts judiciary. The state planning agency is the Committee on Criminal Justice, an executive branch agency appointed by the Governor. In 1975, 5% of the block grant funds were allocated to court administration; for 1976, the allocation has been reduced to 2.9%, a reduction of 42%.

What is the effect of this backlog upon our criminal justice system? Law enforcement officers and police become disgusted with delays; prosecutors and defense attorneys run the risk of unavailable witnesses who move or die; memories are dulled; evidence is lost; and people who may be innocent and whose reputations may be severely damaged by indictment are denied a trial. In order to move the criminal business of the Commonwealth and become current with the civil business within five years, Massachusetts needs desperately 19 additional judges. The Legislature has not responded. Nor has the Legislature authorized the temporary recall of retired justices. Many of these retired justices are still fully capable, willing, and anxious to return to active service; all of them have years of valuable experience. The cost of their services to the state would be miniscule because the recalled judge would receive only the difference between his pension benefits and his pay, that is approximately \$9,000 per judge per year.

I do not intend to comment upon national crime statistics other than to point out that it is apparent from the graphs on crime the rate of increase during 1974 was steeper than in any of the previous four years. While crime increased nationally in 1974 by 17%, Massachusetts topped that with 19% and the City of Boston topped it with approximately 25%. Our courts are ill-equipped to deal with this explosion of crime, and the inevitable result is that the most effective deterrent to crime is lost. The most effective deterrent to crime is a speedy trial and the certainty of punishment. Criminals fear being caught; criminals fear being punished; and it is a self-destructing process—diminished deterrence is an incentive to crime and increased crime results in the further deterioration of deterrence. It is like a dog chasing its tail.

For a moment I want to look at the whole criminal justice system in Massachusetts. As intelligent people let us try to find out what we are doing wrong. Obviously whatever we have been doing for the last ten years we have been doing wrong.

Our first contact with the criminal is when we arrest him; the immediate issue is bail. In 1971 our Legislature enacted one of the most liberal bail reform statutes in the country. It created a presumption that a defendant was entitled to be put on the streets on personal recognizance. The court is mandated by statute to try first those defendants who are in jail in lieu of bail. As a result, we never seem to reach for trial those defendants on bail or, more usually, on personal recognizance. Consequently, those released go their merry criminal ways until they get pinched again for another crime. One of the greatest causes of crime is letting known criminals loose upon the streets without bail or on small bail for months and sometimes years before we are able to reach them for trial.

New Bedford, in Massachusetts, is a high crime area. I was advised that most of the crime was being committed by people who were released awaiting trial on other indictments for crime. The summer was approaching. Rather than have these defendants on the loose all summer long, I assigned three special criminal sessions in May and June in New Bedford to try not the defendants who were in jail but the defendants who were on the street on bail. The court did just that. The police chief of New Bedford reported to me that muggings, robberies, breaking and entering, and rapes decreased by 40%. If that teaches one lesson, that lesson is that criminals have to be afforded a speedy trial, and if found guilty punished. This is not an isolated instance. I recently reviewed the criminal trial list for the month of June in the First Criminal Assignment Session in Suffolk County, which is Boston. To give you specifics, we had:

a. A defendant with 15 arrests as a juvenile was before the court in June for a current trial. His record disclosed that before he was reached for

trial on the current indictment he had committed three previous larcenies, on three separate occasions, in three different courts and had been sentenced and appealed on all of them. The point is that while awaiting trial in the Superior Court on one indictment and on bail he had committed three additional offenses.

b. A defendant was upon the June list for trial on the crime of larceny, and his record disclosed that beginning in October, 1974, and while on bail, he had committed three additional, separate larcenies, had been found guilty, sentenced to two years, and appealed and on bail, and again committed three additional crimes while awaiting trial on a current indictment. He is still on the streets.

c. A defendant before the court for trial on an indictment for rape and related sexual crimes had a record of 12 prior arrests. While on bail awaiting trial for the rape indictment, he was arrested on two separate occasions for two separate rapes and kidnapping and an armed robbery. None of these cases has yet been tried.

d. A defendant was arrested on August 5, 1974 for armed robbery and released on bail. On August 12 he was arrested for receiving stolen property and again bailed. While these cases were pending before the grand jury and while he was awaiting trial, he was again indicted for two murders in the first degree, assault with intent to rape, and armed robbery. Before these cases could be tried, he was again indicted for two new offenses of armed robbery, assault with intent to rape while armed, and assault and battery by means of a dangerous weapon. None of these cases has yet come to trial.

These are typical examples of crimes committed while on the street and awaiting trial. Any criminal list will demonstrate to any sitting judge that three are repeated offenses committed by defendants released on bail or personal recognizance while the court is unable to reach them for trial on current indictments. I knew that the Bail Reform Law of 1971 was too liberal. In the courtroom I could see defaults by the bushel. I gathered statistics. These figures represent the defaults in the major counties of the Commonwealth for the three years prior to the enactment of the Bail Reform Law and for the three years subsequent to the passage of the Bail Reform Law. Without bothering you with detailed statistics, let me indicate that in Suffolk County defaults increased six times after the passage of the new bail law; in Middlesex County, they increased three times; in Essex County, they increased 17 times; in Worcester County, they tripled; in Hampshire County, they increased five times; and in the balance of the 14 counties of the Commonwealth, they tripled at least. When a defendant defaults, if you think he is immediately picked up and brought to court you are wrong. Without much criticism, because the police really have enough to do to keep up with current crime in the streets, the default warrant is usually placed in a pigeonhole in a desk at police headquarters. The next time we see the defendant is when we are lucky enough, and he is unlucky enough, to be picked up for another crime.

With this record, you would think that intelligent people would tighten up the bail laws. Not on your life! There is a new bail law flying through the Legislature which puts our present bail law to shame. It not only preserves the presumption that the defendant is entitled to be put on the street on personal recognizance, but it provides for a 5% deposit in cash on whatever bail is set. If a judge wanted to set honest-to-God bail of \$50,000, he would have to set bail at \$1 million. In addition to that, before a court can place bail, as we used to understand bail, he has to consider releasing the defendant in the custody of a friend or relative or place restrictions on his travel, his associates, or his place or abode. In other words, tell the defendant to be in at 10 o'clock at night or take his driver's license away from him. Under our new bail law, we do away completely with surety companies, and many times they were the only ones who had any interest in trying to find a defendant who had skipped.

It is apparent to me that the first mistake we are making in the criminal justice system is at the arrest stage. The present bail law and the proposed new bail law are just too liberal. If we learn any lesson from that, the lesson is that we should start thinking about preventive detention. A judge can determine from the evidence presented at the bail hearing and from

the criminal record of a defendant before him what the probability is that the defendant would commit violent crime before the case comes to trial. The judge should be able to hold him without bail when necessary. Hand in hand with that goes a speedy trial—60 days—and a full opportunity to prepare his defense. I see no constitutional problem with preventive detention. The presumption of innocence is preserved at the trial level where it attaches. It seems to me that it can't help but work and eliminate a vast array of crime that now exists for the lawless defendant because, very simply, he can't commit a crime while he is in jail.

Now let us take a look at the second stage, where the criminal defendant comes in contact with the criminal justice process. This is the trial level. Realistically speaking, no defendant breaks down any courthouse doors clamoring for a trial. The longer a trial can be delayed, the better. The continuance is the best friend of the defendant because the certainty of trial, guilt and punishment is lost. If the defendant is on bail, the problem is compounded. The reason for the continuance lies in great part with the inability of the court to provide a trial session when the parties are otherwise ready for trial. In every criminal trial session there are cases from the assignment session backed up ten and twelve deep. It is not possible, and it is pure injustice, to keep police, lawyers, and witnesses hanging around a courtroom for days. Cases have been continued as many as 12 to 15 times before they are finally reached in a trial session. In a trial session, cases sometimes wait for a month after assignment to reach the actual trial stage. Civilian witnesses who are losing time from work and business ultimately refuse to come to court again. It reaches the point where the public fails to prosecute or assist in the detection or prosecution of crime so they won't become enmeshed in the criminal justice system. The public lacks confidence in the courts. When a case is ultimately reached for trial, the trial judge is faced with so many pretrial motions (as the result of constitutional decisions of the Warren Court in the criminal law field) that trials are further delayed and prolonged. The criminal courts now spend as much time trying the police as to how they got their evidence as they used to spend trying the defendant on his guilt or innocence. If more judges are not forthcoming, the only suggestion I can make is that there be created in the system a number of magistrates similar to the federal system who could pass upon all pretrial matters and leave the time of the trial judge free for nothing but trials. So long as the system is plagued with the problem of continuances, crime will always have a safe refuge.

No one is more familiar with the faults of the system than the lawyers who practice at the criminal bar. They play it to a fare-thee-well. I have no doubt but what some lawyers are paid substantial fees for the sole purpose of preventing or delaying trials. The vast majority of defendants before the court are indigent and represented by public defenders. The case load of the public defenders is so heavy that they have no alternative other than to seek continuance after continuance after continuance, because they can try only one case at a time. Likewise, consider the problems of the office of the prosecutor, which is always undermanned and understaffed; the result is that there are perpetual conflicting engagements. With the exceptionally low salary scale of assistant district attorneys, to a large extent we have bright young lawyers, just out of law school, acting as assistants with on-the-job learning at the expense of society. Cases are hastily prepared, poorly tried, without the guiding hand and wisdom of a mature lawyer. When the private criminal bar is involved, it is usually the ablest lawyer, hired with private funds, that winds up pitted against the neophyte and inexperienced assistant district attorney. Inevitably, many jury verdicts result in acquittals where the evidence warrants conviction because of an inept trial.

At the trial level, the greatest criticism of our people is that after a defendant pleads guilty or is found guilty, judges don't punish even the most vicious. Judges just don't punish! It is so widespread, it must have a germ of truth. If you read some of the letters I receive from victims, from editors, and from an enraged community, you would know there is some truth to it. In the restless and violent days in which we live, torn by dissent, by crime and violence in our homes and on our streets, our people have a right, I think, to look to the bench and to our courts with confidence and respect—

there at least and at last comes the day of judgment. I sit in a trial session on occasion. On criminal matters without number, I have before me criminal records of defendants sometimes covering as many as both sides of six pages. All too often, when I review such a record I find that the defendant has danced through the criminal justice system either with no commitment or with a short house of correction commitment. Our judges suspend sentences and suspend them and suspend them, when every dictate of conscience, of judgment, and reason, and certainly the interests of society, demands commitment. A defendant at the bar is not the only one entitled to due process of law. He isn't the only one with constitutional rights. So is the victim who thirsts for simple justice and all too often never finds it. So is the community of law-abiding citizens which resposes its trust in the judge to render substantial justice. We all believe in rehabilitation. But if rehabilitation doesn't exist in the heart of a defendant, it doesn't exist, period. And if it doesn't exist, no power on earth can fan it into life. Punishment is an essential ingredient of the criminal justice system, and don't forget it. There is nothing wrong with punishment. What the editor of Channel 5 recently said in a TV editorial on crime, I heartily endorse:

"If we are to have any hope of containing or reducing crime, we have no choice but to punish those who break the law. Massachusetts judges who show more lenience to criminals than concern for society betray their office. They should re-examine their crucial role in our criminal justice system."

I agree. With all my heart, I agree. There are two sides to the coin of justice. Sure enough, one is the defendant, but on the other side of the coin are the six million people of Massachusetts. Equal justice for all includes in the "all" you and me, our families, our friends, our neighbors, the old, the young, the lame, the halt, and the blind; and our judges must never forget it. Never! I can think of nothing more discouraging to law enforcement officers and society than the failure of a judge to commit when commitment is inevitable, and commitment is inevitable when probation has been flaunted, when suspended sentences have been ignored; if it is otherwise, those guilty of crime are encouraged to flaunt and defy our criminal justice system. At that point there must be commitment.

I was completely amazed at the national statistic released by the Attorney General that only 2% of criminals arrested for crime ultimately wound up committed. I am even more alarmed at the statistics in my state where a study was made recently by Commissioner diGrazia of Boston Police Department. It involved a random sample of 297 arrests for street crimes. Two-thirds of those arrested had records for prior arrests and convictions. Of the group having prior criminal records and who were found guilty or pleaded guilty, only 5.8% wound up being committed. Only 3.9% of all of those arrested were committed. Is criticism of our judges in order? Let's look at a few specifics from this study.

A 30-year-old male is before the court for armed robbery with a prior record of unarmed robbery, armed robbery with a knife, larceny from the person, assault with intent to rob, attempted larceny from the person, assault and battery, receiving stolen goods. He received the disposition of two years' suspended sentence, two years' probation.

A defendant is before the court for larceny from the person—that is a handbag snatcher, where the old woman winds up with a broken hip that sometimes doesn't mend—a previous record of assault and battery, kidnapping, possession of a controlled substance, possession of cocaine, larceny of an automobile, gaming, statutory rape. The disposition was filed—filed after the sentence for the statutory rape was two years' probation.

A defendant is before the court for larceny over \$100, a felony, with a previous record of armed robbery, another armed robbery, possession of heroin, possession of burglarious tools. The disposition was three months' suspended sentence, three months' probation—a 27-year-old criminal.

A defendant is before the court for larceny of a motor vehicle, age 27, with a previous record of assault and battery with a dangerous weapon with intent to commit murder, larceny, breaking and entering, armed robbery. The disposition was one year suspended sentence, two years' probation. Larceny of an automobile is the means and the wheels of crime. It is the fast escape. It is dispositions of this type that is now causing our Legislature to consider

a mandatory sentence for larceny of a motor vehicle. With these types of dispositions of serious criminal matters, and with defendants before the court, is it any wonder that criminals no longer fear being caught, prosecuted, or tried? It is nothing but a momentary interruption of a lawless life of violence.

These statistics come after we have caught a defendant, after he has been tried and found guilty; statistically only a small percentage of those who commit a crime are ever caught. The sad commentary is that crime does pay.

Again at the trial level, let us look at the mortal sin of the prosecutor—plea bargaining. I don't endorse plea bargaining. I do not have it in the Commonwealth of Massachusetts because I decline to assign a judge to bargain justice with the lawless. I do not mean to imply that I do not encourage defendants, their counsel, the prosecutor, and the Probation Department to get together on a conference; and if a guilty plea is in order for the crime charged or any crime the evidence fairly proves, to encourage a plea of guilty and to make a recommendation, which the court follows 95% of the time.

I decline to have a judge be part of the bargaining process where his hands are bound, where if he opens his mouth the plea is constitutionally infirm because he is presumed to have overcome the defendant by virtue of his office, and where the judge is nothing but a rubber stamp to okay a deal that has been made in the corridors by a prosecutor and a defendant. In plea bargaining, nobody wins but the defendant. Due process is tendered to be obsolete. The defendant is not the only one entitled to due process. I am still old fashioned enough to believe that society is entitled to due process and that a defendant should be prosecuted for the crime which he has committed. Otherwise, we prostitute justice. I cannot reconcile myself to have the government buy guilty pleas from defendants in the only currency the government can offer—time. It is an abject confession of our court and judicial system of its inability to do justice, and to do justice is not only its constitutional mandate but the only reason for its existence. It is sad to contemplate that increased crime has pushed our judicial system to the crumbling edge of chaos and collapse, and we have now turned to the lawless who have outraged society, as the only ones who can help us by selling guilty pleas. And in the same breath, we speak with reverence of justice and due process.

I object for another reason. Speed alone is inconsistent with due process. When due process is subordinated to speed and bargaining, it tears the fibres of our freedoms. Justice should not be on a treadmill nor an assembly line. Let us not tamper with the quality of our legal process. It may at times be slow, but let us at least preserve its integrity. Let us live with our consciences. Let us preserve something for those who come after us. Let justice be the landfill of our judges and our courts. There are no shortcuts consistent with justice, believe me. What is the purpose of our judicial process? Is it to process the largest number of lawsuits in the fastest possible period of time? To force civil settlements and deprive our decent, law-abiding citizens of a forum in the civil trial field? Is it to sell guilty pleas? or dismiss indictments or permits pleas to lesser crimes? or to bargain sentences? or to send defendants back to society because we confess we can't give them a constitutional trial? Or is the object of the judicial system that illusive thing we call justice? Justice itself should remain always a figure, tranquil, blindfolded, impartial and eternally sought after by all who pursue it. To establish justice was one of the six reasons of our Founding Fathers when they ordained the Constitution of the United States.

Perhaps the biggest failure we have in the criminal justice system is dealing with the juvenile. Last year, four thousand juvenile defendants went through the Juvenile Court of the City of Boston. Everybody agrees that at least 10% of juvenile delinquents require commitment in secure facilities. In Boston, 70% of all narcotics violations were committed by youths under age 24; 75% of all robberies; 50% of all aggravated assaults; 70% of all burglaries. The astounding fact is that on recidivism 74% of youths under age 20 repeat and 72% of youths under age 24 repeat. As far as repeaters are concerned, the high percentage are usually those youths who, when they were in court for the first time, either were acquitted or dismissed or had the case con-

tinued for a year without a finding. Of that group, 92% were repeaters; of those who had a fine, 78% came back; of those who were given suspended sentences, 57% were again before the court. If these statistics teach one lesson, the lesson is that youth and lenience in our courts is a running headstart to crime. That's what they teach.

We closed the old-fashioned reform schools, or the training schools, and probably they should have been closed. The mistake we made was that we did nothing to replace them. For all of the juvenile delinquents in Massachusetts, we have only 64 beds for the secure detention of youthful offenders. We have no place to commit them. All we have for security is a detention center at Roslindale, where the juvenile goes in the front door and out the fire escape. Nobody ever bothers to look for the escapees. We don't see them until they are arrested again. Then, back to Roslindale and out on the street again.

In a recent editorial on Channel 5, Elwood Hensley, the Director of DARE, Inc., a Department of Youth Services facility, said:

"I am convinced that help for a youngster comes not by locking him behind bars, nor by punishment, but by a structured relationship with a mature adult."

I don't know what that means. I don't understand the philosophy behind it. A structured relationship with a mature adult hasn't controlled juvenile crime. As Chief Justice, I have made it a point to sit in all sessions of the court. I have sat on juvenile appeals. As a typical example, I had one defendant before me who was previously committed to the Youth Service Board—a big, strapping boy of 15 or 16 years of age—who assaulted a teacher in school and jumped up and down on him, breaking the bones in his leg so badly that when his leg was set the doctor picked the pieces up in the palm of his hand like a lot of marbles and patched the leg together again. It was a year before he could come to court and hobble across the courtroom on crutches—permanently injured. There was nothing I could do but commit the juvenile to the Youth Service Board. I found out the next day that the juvenile had been sent to the YMCA and given \$15 a week carfare so he could go back and forth between his home and the YMCA.

The Youth Service Board does not believe in punishment of youngsters. Commissioner Leavey himself said on Channel 5:

"We are attempting to establish small, secure units that will provide security and treatment, yet will not repeat the abuses of jail-like settings."

How do you combat that philosophy? The Commissioner has just tendered his resignation, but I am not certain that that philosophy will depart with him.

As a result, the courts of the Commonwealth are helpless to deal with juvenile delinquency. We have no place to commit juveniles. We can commit only to the Youth Service Board and only when all else has failed. When we do commit, they are home that night before the judge and they give the whole criminal justice system the horselaugh. With the juveniles, there are four possible dispositions: continuing the case without a finding; probation; imposing a suspended sentence; and commitment to the Youth Service Board. The Youth Service Board sends them to a community-based facility or to the YMCA and they wind up back on the street. That's where they started from the street—when they started their journey through the juvenile courts. We have come full circle, and that is the answer to recidivism by juveniles.

I firmly believe in the principle of "spare the rod and spoil the child." There is nothing, absolutely nothing, that will teach a child respect for the law and the consequences of lawlessness more than being confined in a secure facility for some period of time, no matter how brief, even if it is only two weeks. I don't recoil when I speak of a secure facility as one in a "jail-like" setting. True it is that we turn around 90% of all youngsters who get in trouble without confinement. We save useful lives. But unfortunately there are 10% hard core, tough, vicious youngsters responsible for a major portion of our crime whom we do nothing but encourage to pursue a lawless path; ultimately they wind up in state's prison. Meanwhile, they constitute an absolute menace to society. That percentage has to be punished. The sooner we realize it the better. The longer we wait before we get around to it, the more juvenile crime we have to stomach. There is nothing which makes a judge more hopeless or more helpless than to preside in a criminal juvenile

session on a crime of violence and know there is nothing he can do to punish or check it.

Now let us take a look at the other end of the criminal justice system—parole. In Massachusetts, we have parole eligibility at one-third of a minimum sentence for non-violent crime; two-third's minimum sentence for crime of violence, 50% of the sentence to be served in a house of correction. At Concord Reformatory, where we commit our young who are no longer juveniles but tough, hardened criminals, who really belong in state's prison were it not for their youth, we have a parole eligibility of six months for a sentence up to six years; 12 months for a sentence from 6 to 12 years; 18 months for a sentence from 12 to 18 years; 24 months for a sentence of 18 years or over; if there is a prior adult commitment, parole eligibility is extended six months. In order to sentence a defendant with no prior commitment to serve a sentence of two years at Concord, a judge has to sentence him in excess of 18 years. This system of parole eligibility has placed the judge in a position where he looks like Simon Legree if he attempts to impose a reasonable sentence on certain types of defendants who should be committed to Concord.

If a court is not content with that type of parole eligibility, our judges are left with no alternative than to commit young offenders to state's prison to be commingled with the hardened felons, and that is wrong.

In Massachusetts, recidivism on parolees runs between 40 to 65% depending on what standard is used to define a "repeater," i.e., within one year, within three years, or within five years. Isn't it perfectly apparent to anybody that if a parole board is wrong on two out of every three commitments they parole, something is wrong with the entire parole system? And with that track record, our Legislature is flooded with legislation to reduce the period of eligibility even on capital crimes. At times I think we will never learn our lesson. Parole should be tightened up, not made more liberal! The police wouldn't have to arrest so often. Maybe so many police would not be killed in the line of duty. Maybe we wouldn't have so many innocent victims.

When a judge gives a sentence to state's prison, a minimum and a maximum is imposed. I don't understand why parole eligibility is based on a percentage of the minimum. Nobody ever thinks about the maximum, not even the defendant. I really don't believe that any defendant ever finished his maximum sentence. Let us do away with the hogwash and camouflage. Let us sentence a defendant to a firm and unalterable minimum sentence. Let that minimum sentence be served before there is eligibility for parole; then everyone, the defendant and society, will know where he is going and for how long.

Sometimes I think that parolees are recommended by superintendents of our institutions for no reason other than to make new beds available. At Concord, we have currently 346 beds and 425 inmates. The overflow sleep on the floor. Walpole, our principal state institution, is within 90 beds of capacity. Norfolk, our next most secure state institution, is 11 beds over capacity. Every house of correction in the Commonwealth is either close to capacity or in excess of it. Where we are going on crowded institutions, I am sure I don't know. Under a former Commissioner we destroyed the West Wing of the Concord Correctional Institution which housed 1200. We never replaced it. A federal judge in Boston ordered the Charles Street Jail closed. It was the holding center for people who were awaiting trial or serving short sentences. There is pending in the federal court a petition to close Bridge-water, our mental institution. It seems to be certain that sooner or later it will be closed. That is a problem for our Legislature, but it can no longer be ignored. I don't profess to be an authority on corrections, but I do say that we need more and better institutions for our felony defendants who require commitment. With the specter of the utter failure and chaos and confusion that we have created in the juvenile delinquency field, let us not move too rapidly toward community-based correctional facilities for adult felony commitments. We still need prisons. Let us not close our eyes to the realities of life.

Our parole system is not working. Probably it is because the members of our parole system are human and fallible even though well-intentioned. Perhaps it is because there is no known way to predict with any degree of confidence whether or not a particular individual will commit future crimes. Realistically speaking, if we are dealing in a field where the objectives for

parole, no matter how laudable they may be, are abject failures, perhaps the time has come to "bite the bullet" and abolish parole completely. Perhaps I am saying the same thing in a different way when I recommend that a firm, minimum, definite sentence must be served. If we are going to reform the criminal justice system in such a way as to have a meaningful impact on crime, we cannot ignore the faults and the failures of parole.

As I see it, these are the failures of the criminal justice system. It is easy to expose them. That accomplishes nothing. The problem before us is to remedy the system. Overall, it has served us well in the past. Let us correct the mistakes we have made. We need to force constructive legislation by the militant and demanding voice of public opinion. Our words cannot fall upon deaf ears forever. Other grave national ills have beset our country, and this Congress has cured them. Within this Congress must lie the ability and the desire to cure this illness. With the strain on the tax dollar at both the state and the municipal level, relief and reform will come too little and too late. The states need help. Let us never forget that the protection and the preservation of the charter of all of the freedoms of all our people, be that person a peasant or a president, lies within the hallowed walls of our courtrooms throughout this nation.

REMARKS BY HON. HAROLD BIRNS, JUSTICE OF THE
NEW YORK STATE SUPREME COURT

Mr. Chairman, Members of the Committee: Thank you for your invitation to appear here today. I intend to restrict my brief remarks to the problem of delay in criminal courts, and a trial judge's view of the problem.

"At a time when there is intense growing concern over increasing lawlessness and violence, it is imperative that our judicial system acquit the innocent and convict the guilty as quickly as possible, consistent with equal fairness to the defendant and the community. Next to the probability of being caught in the commission of a crime, the greatest deterrence to the prospective criminal is the lively expectation of swift and sure punishment." These words were spoken by District Attorney Frank Hogan in 1965. They are as valid now as they were then.

Today our criminal court calendars are clogged with cases awaiting disposition. We lack the ability to meet our responsibility expeditiously. Inasmuch as your inquiry is concentrating on deficiencies in prosecutors' offices, I must say that judges cannot handle criminal trials unless there is a representative of the People present—an Assistant District Attorney—who is familiar with the facts and is prepared to present the case before the court. While there are many important deficiencies in the funding of our criminal justice system in New York City, I would venture that the most critical deficiency, and perhaps the most costly, is the under-funding of the District Attorneys' Offices.

For over 200 years trial by jury has been our hallowed hallmark—with the burden of proof resting upon the government to prove a defendant's guilt beyond a reasonable doubt, or suffer acquittal. But today, trial courts do not merely determine the issue of the defendant's guilt or innocence. This limited function has changed ever since the rules of *Mapp v. Ohio*, 367 U.S. 643; *Jackson v. Denno*, 378 U.S. 368, and *Miranda v. Arizona*, 384 U.S. 436, were superimposed on the judicial systems of the states by the Supreme Court. As a result the number of hearings a trial court must hold has at least quadrupled.

In almost any felony case, murder, robbery, or burglary for example, a trial court must first conduct a hearing to determine whether tangible evidence has been illegally seized by the police and should be suppressed, or whether the purported identification of the defendant has been impermissibly suggested by the police and should also be suppressed, and whether a statement or confession allegedly made by a defendant was coerced by improper police methods. Only after these factual issues are resolved by the trial judge will a jury be impanelled to determine the ultimate issue of the defendant's guilt or innocence.

Our state courts, certainly the courts in New York City, were able up until 1961, when *Mapp* was decided, to deal with cases of indicated defendants

awaiting trial without serious delay. Most cases then were disposed of by plea which reflected substantially the basic charge against a defendant. The ability of the court to try the case promptly was an effective catalyst.

The solution, in my opinion, to these multiple hearings is candid, reciprocal discovery within constitutional limits. If attorneys started with the same knowledge of each other's cases as they eventually obtain through motions, hearings, and trials, vast amounts of time and money could be saved. Competent attorneys could assess the probable success or failure of pretrial motion and most would not have to be litigated. Pleas could be entered earlier and based upon a reliable estimation of the probable verdict rather than guesses as to how strong or weak is the opponent's case. Where a motion or case is litigated, the element of surprise is properly reduced. We have long condemned surprise in civil cases, and it is inexcusable to perpetuate it as a tactic in criminal actions. I therefore recommend that federal assistance be given to encourage broadened reciprocal discovery in criminal cases.

One of the ways in which this can be effected is by the funding of district attorneys offices to encourage and facilitate discovery. Frequently district attorneys are willing in spirit to allow enlightened discovery but are simply so burdened with caseloads that the case is passed along from assistant to assistant, none of whom has time to evaluate meaningfully and prepare his evidence until the eve of trial. In this way the prosecutor can intelligently disclose the discoverable facts without waiting until an imminent hearing or trial finally randomly forces responsibility to be vested in one particular assistant and forces him to examine the case. It is fundamentally unfair, as well as incredibly wasteful, that neither prosecutor, defendant nor judge knows the true worth of a case—and sometimes not even the basic outline of the evidence—until a pretrial hearing.

By the same token, the investigative and legal arms of the Legal Aid Society should be underwritten so as to maintain a desired balance among adversaries.

The increase in violent crime [as disclosed in the recent F.B.I. report of November 18, 1975] and the demand for increased police activity to meet this threat to society has produced arrests in such enormous quantity that our judicial pipeline cannot digest the number of defendants it is obliged to swallow. Permit me to refer to some local daily statistics in New York County.

I have submitted for your examination the felony calendar of each of two parts of our Supreme Court for a typical court day, November 25, 1975.

You will note that one calendar covers Part 30, the part of our Supreme Court where defendants are arraigned upon indictment and for the fixation of bail and for the making of motions preliminary to trial. The calendar for November 25 shows that 46 defendants appeared in response to their indictments or were awaiting action by the grand jury. Almost all indicated pleaded not guilty and thus put in motion the machinery designed to bring them before other judges in calendar parts for assignments to trial.

Of these calendar parts there are five from which ready cases on subsequent dates are sent out to 18 trial judges for trial. There are 18 trial parts excluding those assigned for narcotics cases.

In examining the typical calendar for Part 45, a trial calendar part, you will notice that there are thirty cases awaiting trial on that day. Multiplying that number by five it is reasonable to conclude that on November 25, 1975, up to 150 cases could possibly be sent out for trial if their stage of readiness permitted it.

It is in the trial calendar part that the calendar judge seeks to determine readiness for trial.

Experience has shown that not every case "marked ready" is actually "ready." The calendar judge undertakes judicial exploration of his daily calendar with the hope of sending a case out so that a jury can be selected. The calendar judge considers the age of the case, the number of times it has appeared on the calendar, the status of the defendant, whether incarcerated or on bail, whether all preliminary motions have been decided, whether the minutes of such preliminary hearings have been transcribed, and finally whether there is a District Attorney actually ready to prosecute the case and whether counsel is actually ready to defend. The trial judge may then be

confronted with a defense claim that "discovery" has not taken place or that the grand jury minutes of the witnesses to be called by the prosecution have not been transcribed and if the case is actually ready, the calendar judge may not find a court available for trial. Assuming that all of the mechanical steps have been completed, we find all too often that the assistant district attorney or the defense attorney or both are engaged before other judges on other matters which require attention, or that there are other cases theretofore scheduled which will make the trial judge's assignment of the case before him for immediate trial a futility. The trial judge then must resume his study of the calendar to determine whether there is another case which can be marked actually ready and which can get under way. It is not infrequent that on a trial calendar of thirty cases on a particular day only one may be actually ready to be sent out for a hearing or trial, or, if a case is ready for trial, that a trial part is not available because other cases are being tried.

No court system dealing with such numbers can be expected to give a trial to every defendant on its calendars. It is physically impossible in terms of courtrooms and judges—and I daresay it is financially impossible to underwrite.

Consider, if you will, that in addition to approximately 1,658 bailed defendants now awaiting trial in New York County, there are now 1,120 prisoners awaiting trial, 305 of whom are charged with homicide. Few trials are short; it sometimes takes a week or even weeks to pick a jury.

We should and we do take pride in the refinements of the criminal justice system which cloak each defendant with the protection of the Constitution at each stage of judicial proceedings. But under present conditions, that cloak is only available at trial after interminable delay, when witnesses may have disappeared or memories falter. The disadvantages of a delayed trial are shared equally by the defendant whose label of innocence may never be worn, or the prosecution whose ability to prove guilt is seriously impaired. Needless to say, society suffers. It is because of the inability of the courts to function properly that plea bargaining has achieved notoriety. District Attorneys and courts are anxious to dispose of the accumulating backlog; defendants seek to avoid incarceration; a compromise is reached which amounts to a "settlement" of a criminal case.

The role of the court in approving dispositions arrived at by this method is to make certain that the interest of the community is protected and that substantial justice is done—but this appears always to be open to question.

What must be done is to repair the defects in our system which contribute to the slowness of our procedure, so that the advantage will not be with the guilty defendant.

Realization that continued delay will inevitably bring about dismissal of an indictment is always in the mind of the experienced defendant.

Not infrequently a defendant, even when the known evidence of guilt is overwhelming, when advised by his counsel that a plea is advisable and should be entered to some count of the indictment, will treat the suggestion as an act of treason and seek to have counsel relieved and new counsel substituted or will insist on self-representation. I have just completed the trial of a defendant charged with rape. Four attorneys in sequence, I understand, recommended a plea which was declined by the defendant. The fifth unsuccessfully undertook to represent the defendant, who, to his surprise, now faces sentencing after being found guilty by a jury.

Where the trial of a case is delayed, an incarcerated defendant will correctly seek to have his bail reevaluated. Bail reevaluation is required because we do not subscribe to a practice of preventive detention. Of necessity certain defendants are being released on unreasonably low bail or parole because it is unfair to protract imprisonment in advance of trial. It is not unknown that a defendant so relieved again engages in the same kind of criminal conduct which brought him into court in the first place, and fails to appear in court when required. Between August 15 and November 15 of this year, 483 bench warrants were issued for defendants who failed to appear in the New York County Supreme Court on bail or parole.

In addition to the shortages in the District Attorneys' Offices, delays in particular cases can be attributable also to staff shortages in the criminal

division of the Legal Aid Society. There should be an augmentation of trial counsel so that prosecuting attorneys and assigned defense attorneys need not be shared by competing judges. A lack of funding for these important agencies contributes to the inability to provide speedy trials. Delays are occasioned also by failure to obtain stenographic transcripts of required hearings. There is an insufficient number of qualified court reporters. Again a shortage of funding is responsible. A shortage of correctional officers for the production of prisoners and court officers to provide necessary security in the courtroom shorten the courtroom day. Trials cannot start without defendants and questions of security are now of paramount consideration in many trials.

I could continue to specify many other problems which confront a judicial officer in his everyday work and which bear upon the problem of delay and court congestion. Undoubtedly many of your witnesses will speak of them.

I want to close by stating that there is not a trial judge in New York City who is not ready, able, and willing to try any case on his or her calendar to afford each and every defendant a trial by a fair and impartial jury in a courtroom where there will be a dispassionate, unhurried, and objective determination of the facts.

But our machinery needs the coordination of every wheel—so that each and every defendant can have his day in court—consonant with the constitutional command of a speedy trial.

The Administrative Board of the Judicial Conference in New York has adopted standards and goals for the timely disposition of felony indictments. I am submitting for your information a copy of these standards and goals.

At present, as I have tried to make clear, the principal obstacle to the realization of these goals is that there are simply not enough assistant district attorneys to handle responsibly the volume of cases before the court. This deficiency of funding must be recognized and understood before it will be remedied. I would place that need among the highest priorities for the funding of criminal justice today.

Senator HRUSKA. Our final witness is the commissioner of police of the city of New York, Hon. Michael Codd.

Mr. Commissioner, you have given us and filed with the committee a copy of your remarks. Do you want to read them or do you want to highlight them? In any event, they will be printed in the record in full.

STATEMENT OF HON. MICHAEL J. CODD, POLICE COMMISSIONER, NEW YORK CITY, N.Y.

Mr. Codd. I think, Mr. Chairman, it might be most productive if I were to highlight a few points.

Senator HRUSKA. Good.

Mr. Codd. And then be amenable to such questions as you might want to ask.

Senator HRUSKA. The record will include at the conclusion of your oral testimony your entire statement that you presented to us. You may proceed.

Mr. Codd. Thank you, Sir.

I would like to just highlight a few points if I may, Mr. Chairman, and one is the nature of the problem that is involved in the city of New York with respect to the delays in the criminal justice process.

There is, first, the fact that each day the police census that is attending court averages between 1,200 and 1,300 officers.

Senator HRUSKA. Would you say that again?

Mr. Codd. That each day that I have in court in the city of New York between 1,200 and 1,300 officers. About 400 to 500 of that number are present in connection with the initial appearance or arraignment of a prisoner who has just freshly been arristed. The balance, the 700 to 800, are the result of cases—arrests that were made on prior occasions and the officer's appearance is again needed in the court. Many of these cases represent many repeat appearances.

That repeat appearance is something that is required not only of the officer but also of the victim of the crime and of any other people, witnesses, that there may be. The result of this delay with respect to the court, respect to the police officer is that annually the overtime alone that is occasioned in police appearances in court exceeds \$4.5 million of my budget.

Senator HRUSKA. That is attributable to court time, time spent in court for testifying?

Mr. Codd. The purely overtime aspect, Mr. Chairman.

Senator HRUSKA. Overtime.

Mr. Codd. That doesn't at all cost out the value of the services that have been diverted from patrol to being spent in court on the part of those officers who would be normally working on the day that they are in court.

The second and I think even more important effect of the delay in court is the effect that it has upon the victim of the crime and of the witnesses. Mention has been made here earlier by the victim of crime as to the effect that is suffered by the victim from repetitive appearances and times spent unproductively in court, and the first is the total sense of frustration that the victim experiences. An equally important cost of the delay is that recollections do get dim and the witness is no longer in the best position to testify when the issue does eventually come before the court for trial. Recollection even where it continues to be sharp can be put in question by counsel, so that the people are not being served by delay.

Now, what is it that causes the problem in the city of New York with respect to the court? Well, the fact is that the New York City Police Department arrests over a quarter of a million people each year. In addition, we process another 45,000 or so prisoners with what is called a desk appearance ticket. So we are talking of some roughly 300,000 arrests which go into the court system. Both of the components that deal with that prisoner after the police arrest him, the prosecutor and the court itself, are both woefully understaffed and can't handle the volume of cases that the police produce before them. That results in a delay.

The prisoner falls into one or two categories. He either becomes one of the walking who are on parole or on recognizance, a percentage of whom commit additional crimes before the original charges are disposed of, or they become a person who is waiting in prison, waiting in jail for his hearing, and the average delay today of those detained prisoners before their case goes to trial is approximately 1 year. So there are the two classes of prisoners in addition to the victim who are not, if you will, being rendered justice.

Senator HRUSKA. Mr. Commissioner, you are actively involved, are you not, in the LEAA program as a member of the supervisory board?

Mr. CODD. Yes, sir, I serve as a member of the Criminal Justice Coordinating Council for New York City and I serve also as a member of the crime control planning board on the State level.

Senator HRUSKA. For the State plan?

Mr. CODD. Yes, sir.

Senator HRUSKA. Now, the entire title of that is the Supervisory Board of the New York State Division of Criminal Justice. Is that the way it is designated?

Mr. CODD. Correct.

Senator HRUSKA. Do you feel that comprehensive planning process has been beneficial in the State at large and to New York City?

Mr. CODD. I think there is one area that might—the Congress might look at anew as it now considers renewal of the legislation that governs the LEAA function.

Senator HRUSKA. That is the educational program?

Mr. CODD. No; I think there is one area that might—the Congress ination is the emphasis that is placed in the legislation on community programs and community participation. I think that perhaps a feeling of undue priority has been given in the comprehensive or basic plans to community programs at a time when the basic establishments of the State and of the city, in other words, the courts and the prosecutors, are starving for want of adequate resources. And I think that as long as there is a funnel where the majority of the persons in the criminal justice system are not being adequately dealt with, that the value of innovative programs intended to rehabilitate the very limited portion of the criminal or culprit population, the very small population that they deal with, doesn't serve to improve the system or doesn't serve to make the system viable to the maximum extent.

I think we should look first to try and perfect the basic establishments that are charged with operating and making the criminal justice system function, namely, the courts, the prosecutors and, of course, the police who are the first step in the entire process.

Senator HRUSKA. Now, one of the bills before us, S. 2212, provides for LEAA discretionary funding for high-crime urban areas. Is that a good thing; is it workable; is it beneficial?

Mr. CODD. Well, again it would depend on the use that was made of those discretionary funds.

Senator HRUSKA. The grant would be directly to the city, wouldn't it, and to the police department?

Mr. CODD. I again don't—

Senator HRUSKA. The allocation would be made to them.

Mr. CODD. I don't know whether the best way is to deal directly with cities. After all—

Senator HRUSKA. This is the discretionary fund.

Mr. CODD. Right.

Senator HRUSKA. And to give priority and foremost consideration to high-crime urban areas.

Mr. COBB. That could be a very productive approach if it ended up being used to reinforce the systems that are suffering—the courts, the prosecutors.

Senator HRUSKA. In such areas.

Mr. COBB. Right.

Senator HRUSKA. Has the State been responsive to the requests of New York City for allocation of LEAA resources and funds?

Mr. COBB. I think basically the city gets what might be regarded as a proportionate share of the State funds.

Senator HRUSKA. What can you tell us about the coordination of efforts between the police on the one hand and the courts and the corrections areas on the other hand?

Mr. COBB. The coordination and the cooperation between the police department or the police component of the criminal justice system in New York City and every one of the other component agencies is, I think, at the highest level that it ever has been in the life of the city, and that has been achieved and it has been improved in the last few years by the department itself taking a step on its own initiative. The department has created a deputy commissioner for criminal justice whose sole purpose is to interact and work directly and continuously with the other components of the system. In other words, when we identify a problem from the police point of view, he then works with others concerned, whether it is the chief judge for the courts for the city or with the prosecutor in the given county where the problem has arisen, so as to find some solution to what we perceive as a problem in a fashion that benefits both parties.

I think we have the highest degree of coordination and cooperation today that we have ever had.

Senator HRUSKA. Well, that is heartening to know.

Now, one of the aspects of the LEAA, and I recall well when the program was being fashioned the very great interest in it of the Senator from Massachusetts, and that was the education program, the training program. It has ripened into that effort which centers under the auspices of the FBI in the Quantico institute. What experience has New York City had with that?

Mr. COBB. New York City has been a regular participant, I am happy to say, over the years with the FBI at the National Academy and in the National Academy effort. In fact, at this moment New York City has three of its supervisors attending the current course at Quantico. We found it very helpful. We are both—we participate in both manners in that course in that we also do assist with some of the instruction as well as being participants in the student role.

Senator HRUSKA. I understand that program embraces a payment of the expenses of transportation and the keep of trainees at Quantico at the expense of LEAA and of the training institute.

Mr. COBB. Yes, sir.

Senator HRUSKA. So that all the city contributes is the continuance of the salary for that trainee during the week that he spends there. Do you think that is a good arrangement?

Mr. COBB. I think it is an excellent arrangement.

Senator HRUSKA. It had been different before and the observation was that it proved to be a drag on the program and it was a real

deterrent and obstacle to the most efficient results. So that is why the present basis is now used.

Mr. Codd. Yes; during the period before the institution at Quantico was opened when the school was located at the Justice Building, the stay of the individual was either at the expense of the government body which he represented or in some cases I believe there were private donors.

Senator HRUSKA. How many men and officers are there in the New York City Police Department?

Mr. Codd. At the present moment, Senator, we are at a point lower than we were 10 years ago. Sworn members are in the order of 26,800. A little over a year ago New York City had over 32,000 sworn members.

Senator HRUSKA. A year ago you had over 32,000?

Mr. Codd. Yes.

Senator HRUSKA. Why did you drop the others, the 6,000?

Mr. Codd. It is a direct result of the financial situation and crisis in which New York City finds itself, Senator. We have since October of last—since November of last year—been absorbing attrition at a 100-percent rate, and in addition to that, as part of the city's reduction in its operating costs, on June 30 I was required to lay off some 2,900 sworn.

Senator HRUSKA. I wouldn't want to ask you figures from the fire department, because we should go to that department, I suppose, for those statistics as to firemen.

Mr. Codd. They had a considerable reduction, Senator.

Senator HRUSKA. Do you have any general number on that? How much were they reduced?

Mr. Codd. Their reduction was somewhere in the order of 1,200 or 1,300. I can't be precise.

Senator HRUSKA. Out of a total of what?

Mr. Codd. They had a reduction comparable in size to what the police department suffered on a percentile basis.

Senator HRUSKA. And you said 1,200 or 1,300?

Mr. Codd. In that order.

Senator HRUSKA. In that order. Our concern on that would be that we don't want to get directly involved—certainly this Senator doesn't want to take a hand—in governing the city of New York. That is too big a task for people who are infinitely better than we. What we would be concerned about would be this, whether or not some sense of proportion has been emphasized in reducing city employees so that an undue proportion would not be taken out of the ranks of the firemen and out of the ranks of the policemen. That again is something I don't know that you are informed on. If you are, we would like your observations. If not, we will get that figure from other people.

Mr. Codd. I believe there has been a sense of proportion exercised, Senator. Of course, as you can well appreciate, any agency that is being reduced in size fears that it can least afford the reduction as contrasted with what others might be able to absorb. But I believe there has been a good sense of proportion exercised.

Senator HRUSKA. Thank you, Mr. Chairman, for this opportunity. The witness has completed his statement.

Senator KENNEDY [presiding]. I regret that I wasn't here when you presented it, but I had a chance to review it last night and it is extremely helpful.

Can you tell us of all the features of the criminal justice system where you think the greatest needs are, Chief? Would you be able to comment on that? Is it in the courts?

Mr. Codd. The greatest bottlenecks, Senator, come in taking, if you will, in effectuating the prosecution and when you reach that point you can't separate out the prosecutor and the courts because one is just as essential to the process as is the other. You could have all the courtrooms in the world, but you hadn't the prosecutor with the necessary staff, you wouldn't have an effective system. So I think the greatest need is for the prosecutor and the court on pretty much of an equal basis.

Senator KENNEDY. This is an area where you believe the system ought to be strengthened.

Mr. Codd. I do very much, because the police can work at their most effective and I think we do have in the city of New York a tremendously effective and dedicated police department. But once the arrest has been made, there is nothing further really that we can do other than cooperating with and making certain that the prosecutor is in the best position to go forward with the prosecution of the case and that the court hears all of the facts. But if that prosecutor doesn't have staff to initiate the prosecution and if the court doesn't have the ability to have a judge and the support staff to hear the case, then the arrest is to no avail.

Senator KENNEDY. I noticed in your testimony you point out that on an average day it is not unusual to have 1,200 or 1,500 members of the available force tied up in court. What does that say to you in terms of wasted resources, wasted taxpayers' money?

Mr. Codd. There is a tremendous cost. I mentioned to Senator Hruska a little bit earlier that just in the overtime costs alone that is represented for the presence of men and women who are not regularly scheduled to be working on that day, it costs me in excess of \$4.5 million a year.

In addition to that there is the diversion from either patrol or the other duties that the scheduled members who are present in court should be doing, the jobs that go undone or are less well done.

Senator KENNEDY. Well, I don't know what the courts receive now but it seems to me that you could use that money a good deal more efficiently and effectively if you had less time wasted by police officers being tied up in these court delays and instead could use the money more efficiently in terms of the whole criminal justice system. Would you agree?

Mr. Codd. I would. There have been—

Senator KENNEDY. What is the average number of times that a police officer has to go to court before the trial begins?

Mr. Codd. The average case generally involves at least half a dozen appearances. There are many cases that require far more appearances than that. I mentioned a few moments ago the coordination and cooperation with the other components. As a result of that cooperation and coordination, we have initiated on a trial—on

an experimental basis what is known as an appearance control project under which the officer on the appointed date appears in court only after notification from the court that the case is likely to go on within the next hour. We are doing the same thing with respect to the witnesses and the complainant, but nonetheless even though in these cases, in this experiment, the complainant isn't physically in court until the case is about to be reached, if that case is excessively delayed from that point being reached, justice is still not going to be done.

Senator KENNEDY. Now, you serve on the statewide council do you not?

Mr. CODD. I do, sir.

Senator KENNEDY. What can you tell us about the reaction of the council to the efforts by the judiciary to get more money for the courts?

Mr. CODD. I think in New York State we do have a very receptive position and posture on the part of the board with respect to the chief administrative judge of the State and the office of the court administrator, but again, as Chief Justice McLaughlin mentioned, there are many proposals advanced to the board and the board, I think, does try to maintain a sense of balance so that the courts do not get everything that they would like, but the courts I think in the Crime Control Planning Board of the State planning agency do get a fair share.

Senator KENNEDY. Could you talk about the future of crime in New York and generally in the country?

Mr. CODD. Well, I think I can't afford to pass up this opportunity to bring to the attention of the committee and the people of America that New York is not the crime capital of the United States regardless of what public opinion there might be thinking that. In fact, New York out of the 25 largest cities is about the 20th ranking of the cities in the crime rate, but that is scant cause for consolation because the crime rate is high. I think that it will continue to be far excessive as long as we experience the delays in moving cases to trial because, as Chief Justice McLaughlin mentioned and as Justice Birns mentioned, it is a fact that many of the people who are awaiting trial on a charge for which they have been previously arrested and who are out on the street do commit additional crimes. If the original case were disposed of, again with swiftness and with surety, they wouldn't be out to commit those additional crimes.

Senator KENNEDY. Do you think that is a view shared by most of your colleagues?

Mr. CODD. Absolutely, Senator, without any doubt. The only thing that has any meaning to a person who has committed a crime is the fear that would be induced by the knowledge that he is going to have that case very quickly heard and if he is found guilty, he will be punished. But as it is, today if a criminal can make bail, he is almost never going to go to trial.

Senator KENNEDY. How rational are the criminals themselves? I mean, we have heard from some of the witnesses this morning about how they play the odds. What is your experience?

Mr. CODD. I couldn't agree more with the two first witnesses who made those statements. The criminals, those arrested for committing

crime, if they don't already know the system, they quickly learn the loopholes and they detect the chinks in the system and they exploit them. They would be fools not to as long as they know that there is little chance of being punished if they can keep playing every legal loophole.

Senator KENNEDY. Do I understand your position that the most effective way of dealing with crime is a speedy trial and certainty of punishment?

Mr. CODD. Absolutely. That is the thing that has been lost in the system. And that is the thing that has to be put back in the system to make it function.

Senator KENNEDY. What about the mandatory minimum sentences?

Mr. CODD. Sir?

Senator KENNEDY. What about the mandatory minimum sentences?

Mr. CODD. That would only operate after that swift trial so as to be the certainty of punishment.

Senator KENNEDY. You would support that as well.

Mr. CODD. I would, and particularly would I support it with respect to those crimes in which a weapon is used.

Senator KENNEDY. You mentioned a list of the cities with crime rates. Do you have any idea about why they are going up in places like Phoenix, Ariz.?

Mr. CODD. I think as was mentioned earlier it is a nationwide problem. There is no such thing as a safe haven from crime. Crime is a problem in every one of our cities, in every one of our towns and villages, in every one of our suburban areas, and I think until we do reestablish that swiftness and surety of punishment, there is going to continue to be an escalating problem because if people perceive that there is little likelihood, No. 1, that they are going to be tried or punished, they are just not going to be worried, then, about committing crimes.

Senator KENNEDY. What about the disparity in sentencing? Is this a problem, too?

Mr. CODD. Disparity in sentencing, Senator, is a difficult thing to try and address for the simple reason that any judge, when he reaches the point of imposing sentence, has to take cognizance of the variables that are represented by the defendant in front of him. And there are such things as prior history. So these are all variables that have to be taken cognizance of.

Senator KENNEDY. You mentioned earlier that anybody who is out on bail rarely goes to trial?

Mr. CODD. That is right. Or he rarely goes to trial for what he was arrested for. There will be a settlement for the case, or plea bargaining, if you will, down the road, at a far longer time period than the case will get reached for the man who is still in detention.

Senator KENNEDY. We heard earlier from Judge McLaughlin about the fact that—I think he said 40 percent of the crimes were committed by those who were on bail. Is this dissimilar in New York?

Mr. CODD. No, sir. It would certainly be I think equally true in New York and probably equally true almost anywhere in the United States.

Senator KENNEDY. Does this suggest that the repeat offender is the prime problem?

Mr. COBB. We know that, because of people whom we arrest and who are arrested by police departments across this country; two-thirds are previously known to the police.

Senator KENNEDY. Well, I think this is very helpful, Commissioner. You understand the stress that some of us are placing on speedy trials and certainty of punishment; it seems to me these are themes which have been running throughout the testimony of the witnesses we have heard here.

I think we have listened to the victims' point of view, the criminals' point of view and the judges' point of view. The courts—most of them at least—say trial, and certainty of punishment, can really have an important impact in terms of crime fighting in this country and we have to ask ourselves in developing and fashioning a program dealing with crime, if LEAA is putting the emphasis and stress in those areas. I think your testimony on this issue has been very helpful. I want to thank you very much.

Mr. COBB. Thank you, Senator.

Senator KENNEDY. We appreciate it.

[Statement referred to follows:]

POLICE COMMISSIONER'S REMARKS BEFORE SENATE SELECT SUBCOMMITTEE

It is indeed a great pleasure for me to be here today before this distinguished body to share some of my views and the problems we experience within the Criminal Justice System.

Foremost on our minds is New York City's present fiscal crisis and our ability to meet the challenge. Budget cutbacks and personnel layoffs severely tax our resources, requiring (in many instances) a reordering of priorities, to render the best possible service that we can. Unfortunately, the crime problem cannot be cut back as easily.

All of us in the Criminal Justice System are well aware of the great responsibility we share in dealing with crime. We, the police, must concern ourselves with maintaining optimum patrol effectiveness, which can only be accomplished when we are able to provide the necessary manpower to this first line police responsibility. Police officers tied up in court for long periods of time, either on new arrests, case preparation conferences with the district attorney, or court appearances, seriously undermine the effectiveness of patrol. On an average day, it is not unusual to have 1,200 to 1,300 members of our available force tied up in court. Perhaps, the most frustrating delay experienced by officers, complainants and witnesses, is at the district attorney complaint room level.

By the time an officer reaches the complaint room stage, he has spent much time and energy in preparing his case for court. He is by that time (in most instances) working past his tour of duty, or has had to return to court in the morning following a 4 p.m.—midnight tour of duty. Having to wait his turn, on what seems to be a never ending line, to have his complaint prepared, further taxes his energy and patience. Just trying to hold on to his complainant during this period is in itself a major effort. We must also realize that such long delays have a deleterious effect on our citizen victims and witnesses as well.

Officers and complainants continuously ask the question, "Why don't they have more ADA's in the complaint room?" Of course, more ADA's require more clerical support staff. This too is lacking in the complaint room, all of which costs money. Would it not be far less expensive to have those additional ADA's and support staff, than tying up several officers for many hours, either on overtime or from much needed patrol duties? Some complaint rooms are so understaffed that police officers whom I needn't tell you are sorely needed on patrol, must be assigned as complaint room typists.

Some thirty (30) officers are presently assigned to actually perform this function to relieve the backlog. Opening the complaint room at an earlier hour would also relieve congestion at this stage.

The delays which occur between arraignment and trial can also be attributed in many respects to insufficient ADA support staff. Insufficient investigative staff requires that ADA's must rely on police officers to conduct investigations, serve subpoenas, seek out and transport complainants/witnesses, often from locations outside the city, it is not unusual to have 400 to 500 officers a week assigned to DA offices for trial preparation, again severely depleting patrol effectiveness, with the speedy trial act and the additional pressures placed on district attorneys to move cases forward to trial, the need for additional assistants will even be greater.

The inability of the district attorneys and the courts to expeditiously process police arrests into the system is costly to the taxpayer. Police department overtime costs for arrangements exceed 4.6 million dollars annually. In Manhattan, it is not unusual to have 40 to 50 holdover prisoners each night, defendants who must be channelled back to police detention facilities because the court closed before they could be arraigned. The officer and his prisoner must then appear the following day and frequently wait until late in the evening before the defendant stands before a judge. This further compounds our overtime costs.

The federally funded police legal advisor program, which assisted field commanders in resolving complicated legal issues, was recently terminated due to the inability to institutionalize it. The need to call on the district attorneys' officers will increase as a result of this projects' termination. A program in Kings County, in which ADA's respond to serious felony cases proves most valuable in the development of cases, and reduces the amount of pre-trial preparation required. I would like to see this program expanded to other boroughs, as well as the placement of assistants in central bookings facilities.

With over a quarter million arrests, including over 100,000 felonies, being fed into the system annually, it is difficult to imagine that the direction and processing of each of these arrests must hinge on decisions made by ADA's in the very few minutes they can afford to spend on each case. Determining the validity of the arrest, interviewing officers, complainants and witnesses and determining the manner in which evidence was uncovered and other relevant factors, must all be considered under the pressure of getting on to the next case and maintaining the flow.

To insure that only those cases which stand a reasonable chance of successful prosecution are processed into the system, we in the police department have attempted to exercise a form of "Quality Control" in our enforcement efforts. In four of the five boroughs which comprise New York City, all arrests are processed at a central booking facility. This permits the department to oversee and review the quality of arrests being made, screen out cases should not go forward or divert them to family court, or other appropriate agencies who can deal more effectively with the problems at hand. We recognize that criminal prosecution does not always offer the best solution. Almost 2,000 cases were terminated outright in 1974 after review by a supervisory officer disclosed lack of reasonable cause as required by the New York State Criminal Procedure Law. Offenses below felony or serious misdemeanor grade are being released on desk appearance tickets for future court appearances. The future court appearances are then scheduled between day and night sessions of the court, so that an average number of cases appear on each calendar session. This also relieves complaint room congestion, over 45,000 desk appearance tickets were issued in New York City in 1974. Violation arrests, such as disorderly conduct, loitering and criminal trespass, which in the past also contributed to congestion in the arraignment parts, are now delivered to the summoning part of the court via the universal summons process. A vast reduction in public intoxication arrests has been made by the establishment of the Manhattan bowery project, which permits many of the unfortunate derelicts, in New York City, to be diverted to that project in lieu of court processing. Over 6,000 referrals to this project were made in 1974. The New York City Police Department is also cooperating with the Institute for Mediation and Conflict resolution in a federally funded,

pilot project, which attempts to mediate interpersonal and family conflicts at the community level. Skilled Mediators work to resolve such disputes rather than having them plod their way through the already overburdened court system.

While the Criminal Justice System is comprised of a number of components, the first joining of the police with the system is their initial contact with the District Attorneys. This is an extremely important facet of the process. If the system is not properly coordinated at this level, further successful prosecution is severely jeopardized. If we fail the DA cannot succeed and without solid prosecutions by the DA our crime control programs mean very little.

Because the city is comprised of five counties, each of which has its own DA elected by the people of that county, the manner in which cases are processed often differs markedly from county to county. Each DA has an individualistic approach to crime problems in his own county based upon how he views the needs and desires of the constituency he serves. I mention this as an indication of how complex enforcement problems can become.

To insure proper coordination and that major police cases do not pass through the system lightly because of inadequate case preparation or investigation, police supervisory officers are assigned in each county to act in a liaison capacity with the courts and district attorneys. These officers have special expertise which they bring to bear on identifying major cases, major violators and on assisting arresting officers throughout the process. Additionally, they see that all available information is provided to the prosecutor to insure that nothing is left undone in terms of receiving the best possible dispositions for the extremely difficult and often hazardous arrest efforts of our police officers.

The police, being in the front line and having daily contact with the public, are in a position to hear many of the complaints voiced by victims, complainants and witnesses, who often feel they are the forgotten people in the system. After perserving through the lengthy period of having their complaint processed they may discover that the person who committed the crime is released on his own recognizance or on low bail. In many instances, the alleged criminals are home before the complainant or officer. The complainant may be given a date in which he is to appear in court for a hearing or trial. But if circumstances mandate a postponement, he is seldom consulted. After a number of appearances he becomes discouraged and the one time he is unable to appear, or wasn't properly notified, the case is dismissed. He suspects, correctly or not, that the district attorney, the police and the courts are only concerned with his testimony, and not with him as a person who has been victimized.

It was to alleviate the problemso f court appearances for complainants and police alike and insure that they were there only when needed that the appearance control project was established. Built into that program is an "alert" procedure, which permits officers to remain on patrol and complainants to remain at their jobs until their presence is actually required. Cooperation by district attorneys is essential to the success of this program and I am pleased to state that we have received their cooperation in full measure. Here is a classic example of the district attorney making a direct contribution to the safety of our citizens by increased police patrol capability. Hopefully, we can extend this program to Supreme Court in the near future. During 1975 we expect to save over 26,000 police officer tours for patrol duties as a result of this program.

The early case assessment program (ECAP), in which experienced ADA's review felony arrests and present them to the grand jury on the day of arraignment, or process them through the major felony program when the grand jury is not sitting, is a major step forward. This insures that special attention is given to deserving cases, and reduces subsequent police court appearances which occur when officers have to return on a future date for a grand jury appearance. Shorter waiting periods and more attention to serious cases would result if additional experienced ADA's were assigned to this program. Having additional support staff in the ECAP program would also obviate the need for officers and complainants to wait in two lines, first the ECAP line, and if the case is not going to the grand jury, or reduced, being returned to the complaint room for an additional waiting period.

Pre-arraignment, which has caused mixed reactions among the various components of the criminal justice system is another method of reducing officer and complainant time at the initial stages of arrest processing. Although this system is widely used in many jurisdictions across the United States, it is only in operation on a limited basis in Bronx and Queens Counties. District attorneys in Bronx County are free to evaluate whether or not the officer's presence at arraignment is actually necessary, whereas in Queens, the judge's approval must be obtained. Extending the authority to all ADA's to make such determination and extending pre-arraignment processing city-wide, would save millions of dollars in police court time, and there would be less reluctance on the part of complainants and witnesses to return for future court appearances, if they were expeditiously excused at the arraignment appearance.

We all recognize that plea bargaining is a necessary and valuable tool which enables the criminal justice system to function. However, because of the enormous pressures created by the large number of defendants being processed and the budget constraints placed on prosecutors and courts alike, abuses have occurred. In effect, the rule of law is sacrificed in proportion to the volume of cases that must be channeled into the system. Where pre-trial hearings permit both the prosecution and the defense to examine the quality of each other's case, plea bargaining is reduced to negotiation in an attempt to get a plea, rather than proceeding with a lengthy trial. Again, adequate court and district attorney resources would permit greater control of this process to be exercised.

As in other criminal justice agencies, the prosecutors of the city receive an inordinately low share of the budgetary "pie". Latest available figures indicate, prosecutors receive 1.6% of the criminal justice dollar. The police receive 78.7%, corrections receives 9.1%, probation receives 1.9%, the courts receive 9.8% and legal aid services receives .8%. This must be rectified if we are to expect competent, career minded district attorney staffs capable of providing high quality public services. Because of low salaries paid to assistants, it is not surprising that after they have gained some experience in criminal prosecutions, they leave for more financially rewarding positions. While attempts have been made to assign a case to one assistant from its inception to disposition, the turnover of personnel in the DA's office, often results in a number of assistants having to handle a case before it reaches a final disposition. For example, in one important murder case, as a result of turnovers, a third assistant is now handling the case, requiring as many as one hundred and fifty (150) police officers to be called in each time a new assistant is assigned. Had one assistant been able to handle the case during the entire process, not alone would he be more familiar with the facts and circumstances, but considerable police time would be saved in development of the case.

You can readily see that our policies in dealing with the total system of criminal justice must be flexible and resourceful. It is for this reason that the position of deputy commissioner, criminal justice was established within the New York City Police Department. The deputy commissioner, criminal justice maintains continuous liaison with the district attorneys, judges and directors of other criminal justice agencies, It is his task to foresee potential difficulties before they develop and to pursue innovative programs geared to improving the posture of the police over the entire range of the arrest/arraignment/trial process.

Unquestionably, any crime control program cannot succeed unless adequate resources are available across the board throughout the criminal justice system. Certainly, I will be the first to say that we need more police—we do indeed. I also realize that our job is *not* finished with an arrest. The entire system must function—and function well—if the police effort is to bear fruit. Our police, district attorneys, and courts are each indispensable. When one fails the system flounders. When one component is under funded—our crime problem will grow. Unless our criminal justice system truly functions as a system it will fail in our common mission—providing the highest level of protection possible for our citizens. They deserve no less.

Senator KENNEDY. The subcommittee stands in recess.

[Whereupon, at 1:30 p.m., the subcommittee recessed subject to the call of the Chair.]

AMENDMENTS TO TITLE I (LEAA) OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1966

WEDNESDAY, MARCH 17, 1976

U.S. SENATE,
SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 4232, Dirksen Senate Office Building, Senator Edward M. Kennedy, presiding.

Present: Senators Kennedy, Hruska, and Thurmond.

Also present: Paul C. Summitt, chief counsel, Dennis C. Thelen, deputy chief counsel and Mabel A. Downey, clerk, Subcommittee on Criminal Laws and Procedures; Kenneth Feinberg, general counsel of the Subcommittee on Administrative Practice and Procedure; and J. C. Argetsinger, professional staff member, Committee on the Judiciary.

Senator KENNEDY. The subcommittee will come to order. Today the Senate Subcommittee on Criminal Laws and Procedures continues its hearings into the proposed reauthorization of the Law Enforcement Assistance Administration. For the past 5 months, the subcommittee has listened to the testimony of various witnesses, pro and con, and has attempted to grapple with some of the major problems which confront LEAA in waging an effective war on crime.

I think all of us are familiar with the increase in crime and I think all of us recognize the limitations on the Federal Government in resolving this particular problem. Basically law enforcement is a local problem. There should be local authority and local support.

I think our real responsibility is to determine how we at the Federal level can best help and assist local communities in dealing effectively with this problem by establishing a variety of imaginative and creative and valuable programs which hopefully will be duplicated in other parts of the country. We can make a significant contribution in assuring that the people of this nation are going to live in a peaceful society and that those that are involved in criminal activity will be given a fair trial, an immediate trial, and hopefully appropriate sentences for their particular criminal activity.

S. 3043 is designed to provide that direction. It is cosponsored by a bipartisan group of 14 Senators. The bill undertakes to make major changes in the structure and implementation of the LEAA program. It has a broad, detailed evaluation mechanism to make sure that the Federal moneys appropriated are being wisely spent on programs designed to prevent and reduce crime.

It has detailed congressional oversight, with LEAA submitting an annual report listing, for example, its public policies and priorities for reducing crime, evaluating procedures, the number of State programs approved and disapproved, and financial and technical assistance to the courts. It has a provision placing LEAA under the specific control of the Justice Department.

Furthermore, funds are directed towards urban and rural areas faced with high incidences of crime. There is a mini-block grant provision directed toward cities and counties. We continue to provide strong support for the block grant concept. But there is no reason that we shouldn't at least look at the mini-block grant feature and try to provide areas with high incidence of crime with special assistance.

It provides for the repeal of the statutory prohibition against the use of LEAA funds to pay for personal compensation. It furthermore provides financial and technical assistance to aid the nation's elderly in their struggle against crime, listing the interests of the elderly as one of the areas of priority. And furthermore, it provides for the reauthorization of LEAA for only a 2-year period. There is great interest in the Congress now that it be renewed for just 1 year. We provide for 2 years so that we will be able to have very careful oversight of the entire LEAA effort.

In my statement, which will be printed in its entirety in the record, I develop those particular points.

[The above referred to statement follows:]

OPENING STATEMENT OF SENATOR EDWARD M. KENNEDY

Today the Senate Subcommittee on Criminal Laws and Procedures continues its hearings into the proposed reauthorization of the Law Enforcement Assistance Administration. For the last five months this Subcommittee has listened to the testimony of various witnesses—pro and con—and has attempted to grapple with some of the major problems which confront L.E.A.A. in waging an effective war on crime.

The violent crime rate has risen almost 60% since the inception of the L.E.A.A. program in 1968, over 17% last year alone. The future appears even more bleak. Our violent crime rate is soaring through the ceiling despite the fact that the L.E.A.A. program cost the American taxpayer over four billion dollars since 1968.

I have repeatedly stated in recent months, however, that L.E.A.A. is not the magic cure-all to the nation's soaring crime rate. Crime is an elusive, complex problem that defies simple solutions and labels.

In recent months I have introduced and cosponsored various bills designed to meet the challenge of crime on a wide front—bills to alter our unjust criminal sentencing practices, reform federal parole procedures, provide financial aid and technical assistance to our overburdened courts, and provide meaningful controls on the proliferation and use of handguns. In addition, efforts continue to enact a fair and just criminal code.

These and other similar measures are essential if we are to wage an effective war on crime. L.E.A.A. cannot do it alone.

But the L.E.A.A. program is an integral instrument for conducting the federal war on crime and five months of Senate hearings have demonstrated that L.E.A.A. is not living up to public and Congressional expectations. The American people are simply not getting a fair return on their four billion dollar tax bill. It is, therefore, essential that new Congressional guidance and direction occur if L.E.A.A. is to make a truly meaningful contribution to the war on crime.

S. 3043 is designed to provide that direction. Cosponsored by a bipartisan group of fourteen Senators, the bill undertakes to make major changes in the structure and implementations of the L.E.A.A. program. Highlights of the bill include:

(1) *A broad, detailed evaluation mechanism* to make sure that federal monies are being wisely spent on programs designed to prevent and reduce crime. The L.E.A.A. Deputy Administrator would evaluate and audit plans submitted to L.E.A.A. for approval, as well as the impact of programs already approved;

(2) *Detailed Congressional oversight* with L.E.A.A. submitting an annual report listing, for example, its public policies and priorities for reducing crime, its evaluation procedures, the number of state plans approved and disapproved, and the number of L.E.A.A. programs discontinued;

(3) *Financial and technical assistance to the Courts* designed to reduce court congestion and delay. Judicial planning committees could be established in each state to plan for local judicial needs;

(4) *L.E.A.A. placed under the specific control of the Justice Department*;

(5) *Funds directed to urban and rural areas faced with a high incidence of crime*;

(6) *Mini-block grants* directed to cities and counties without each and every project application having to be submitted for approval by the state planning agency. This assures direct and immediate financial assistance to those localities which bear the main responsibility for combating crime;

(7) *Repeal of the statutory prohibition against the use of L.E.A.A. funds to pay for personnel compensation*;

(8) *Financial and technical assistance to aid the nation's elderly* in their struggle against crime;

(9) *Reauthorization of L.E.A.A. for a two year period*;

S. 3043 is designed to rectify those structural and administrative problems which prevent L.E.A.A. from waging a truly effective innovative war on crime.

I look forward with keen interest to the testimony of our distinguished guests on the subject of S. 3043.

Senator KENNEDY. I'll ask Senator Hruska if he'd like to make any comment and then we'll go directly to the witnesses.

Senator HRUSKA. Just briefly, Mr. Chairman. We're glad to have further hearings on LEAA. The authorization process should go forward as speedily as possible. There are certain basic principles that we try to adhere to and keep in mind in all of these hearings on this subject.

The cardinal one is the prohibition that is expressly contained in the 1968 Omnibus Crime Control and Safe Streets Act that the Federal Government not get into a position of domination or even undue influence in the law enforcement processes of the States and cities.

It seems to me that anything that would militate against that principle should be very carefully scanned and sifted out. Now, frankly, one of the differences that this Senator has with the bill that we consider today, for example, is the elimination of the one-third limitation on payment of personnel. Once we get into the business of having an undue proportion of LEAA funds going directly for personnel, we will be at the mercy of those who might be in a position to wield political pressure against the Congress, and who may exercise a greater degree of control over local police and law enforcement efforts.

The basis of LEAA is the true block grant system and it cannot remain a block grant system if we're going to inject too much Federal domination over State and local governments. Under the original concept of the bill and consciously so, after much debate, the State planning agencies of the 50 States and the District of Columbia are given primary responsibility for law enforcement activities.

And those agencies are in a better position to determine priorities than anyone else and it is in that broad frame of reference that I think we should adhere to amending, and considering any alterna-

tives to the to the general thrust of what we have heretofore had. And, again, we welcome this opportunity to have different views expressed, but at the same time, we hope there will be an adherence to these general principles which have served us well.

Time and again we see reference to the fact that because crime has increased 60 percent in the last 7 years, the LEAA program has not proved effective. The \$4 billion that we have appropriated for that purpose has not fruitfully yielded what it could in terms of maximum results.

The fact is, the LEAA is not directly in the law enforcement business. It is expressly prohibited from getting into the enforcement of criminal laws. It is the States and local governments who are in charge of law enforcement. Any criticism in regard to the \$4 billion or any part thereof and relating it to the failure of LEAA to reduce crime is misplaced. That is really a criticism of the police departments, the police officers, the court systems, the probation officers, the prosecutors, and so on, of the States and of the cities. Let us not lose sight of that fact, and as we have witnesses coming before us, to inquire as to what they think of this particular legislation, that LEAA cannot be blamed for the 60 percent increase in crime. It is not a valid criticism. LEAA is not in the police business, nor is it in the prosecuting business.

One way to prove whether or not there's any connection is to simply cancel the whole program and say, there'll be no \$5 billion these next 5 years, and see whether the crime rate will go up or go down, and whether the States and the cities would prefer it that way rather than to have LEAA functioning under a true block grant system.

Thank you, Mr. Chairman, for the opportunity to make a statement.

Senator KENNEDY. I want to thank Senator Hruska. I was interested in his comments about how we shouldn't be deciding at the national level what ought to be done at the local or State level.

But of course, one of the references he used was the elimination of the restriction on being able to spend more than a third of the LEAA funds in terms of personnel. And in complying with his own philosophy of the bill, I would leave that completely up to the locality. Rather than the Federal Government saying, you can't spend more than a third. We eliminated that restriction because I agree with the distinguished gentleman from Nebraska that those at the local level ought to be able to have a strong voice in terms of the development of the program.

But I'm sure Senator Hruska and I are going to be discussing these matters at some length in the committee and on the floor. And we ought to be listening to our very distinguished witnesses here this morning.

I want to welcome the Deputy Attorney General, Mr. Tyler, and look forward to his comments and testimony. Excuse me, before we do—Senator Thurmond, I saw you come in and then I thought I saw you go out again.

Senator THURMOND. Well, I might just say, to save time, that I would like to be associated with the remarks of Senator Hruska. I think he has covered the situation in a way that meets my approval.

Senator KENNEDY. We look forward to the Deputy Attorney General's comment and statement. I, for one, have found the Justice Department extremely forthcoming and responsive on this and other matters before this committee and on a wide variety of different issues and questions. And I think it has developed a strong working relationship with this committee. We may not always be able to agree on different matters, but I think it's the kind of relationship which best serves the country and we look forward to Mr. Tyler's comments this morning.

STATEMENT OF HON. HAROLD TYLER, DEPUTY ATTORNEY
GENERAL, DEPARTMENT OF JUSTICE

Mr. TYLER. Thank you, Mr. Chairman. It is very helpful, I think, for us in the Department, to be invited to appear here this morning and to be available also for any questions that the committee may have, particularly in regard to S. 3043. As the committee well knows, Mr. Velde and other officials of the Department have been testifying in recent weeks before committees here in the Senate and in the House, particularly in respect to S. 2212, which is the administration bill introduced some months ago.

We continue to support that bill and I note that a good many of the concerns that are expressed one way or another in S. 2212 are reflected in the proposal known as S. 3043. As a matter of fact, a good many of the provisions are certainly very similar, as I read them. And I would just like to use a few moments, if I may, Mr. Chairman, to comment on a couple of issues which concern us all and certainly concern you and this subcommittee in the hearings this morning on S. 3043.

Surely one of the concerns reflected in S. 3043 is support for the courts. For some months now, there has been considerable discussion of the needs of the courts. We know that our courts, Federal, State, and local, are suffering congestion. I think LEAA accepts the general proposition that the more help that can properly be given to the courts in LEAA programs, the better. The reason is simple. One can assist other components of the criminal justice system—police, prosecutors, correctional people. But no matter how efficient and improved they become, if the courts can't reach the cases developed, for example, by the police, why all of the good work of certain projects and programs generally has no impact and indeed doesn't even reach fruition.

I would like to express a couple of concerns in this regard. I am very pleased that in the work of the subcommittee staff, some of which was done in conjunction with people in the Department, the feature in the original proposal earmarking 25 percent of block grant funds for courts has been dropped. In so saying, I don't wish to suggest that we failed to understand the concern expressed in that original approach. One of the reasons that we are so happy with our new nominee for the second position in the LEAA, and hopeful that he will be confirmed soon, is that that gentleman happens to be the chief justice of one of our States. We feel that having him as a ranking official in LEAA will help in just this direction.

But to go on to the legislation. I am concerned about a feature of the present S. 3043, that appears to confer presumptive validity on plans approved by the proposed judicial planning committees. I question whether it would really be helpful to give presumptive validity to any plan. It's a concept which has never been used before, and I wonder whether really the courts need some special favor in the form of a presumption of validity. It seems to me that plans that come forward for the courts ought to be evaluated like any other plans.

A second concern I have is the provision in S. 3043 earmarking one-third of discretionary funds specifically for alleviation of court congestion. I recognize that in raising this point, I perhaps can be accused of being unconcerned about court congestion. Given the profession I exercised for 13 years, I would be remiss if I had no concern about that. What I'm trying to say, though, is that I really question whether earmarking is helpful. I believe the court problems in our several States differ. I believe in some States we don't have as serious congestion as we do in others.

I am told by all of my colleagues in my own State of New York that we have severe congestion there. I accept that. I believe the same is true in your State, Mr. Chairman, and in many, many others. But I'm wondering whether a one-third earmarking across the board in fact will achieve what I know you and others, in recommending S. 3043, really want to achieve. I wonder whether this formula might be too rigid and might, in certain cases, make it impossible to meet competing and more important needs of a given State or locality.

My other concern—which really, I suppose, is not confined to the courts—is something that's already been discussed here this morning, that is, the repeal, as I read it, of the present statutory provision limiting to one-third the percentage of any grant that may be spent on salaries. There are a number of ways of approaching this problem. I'm sure that the supporters of S. 3043 are concerned—and I understand their reasons—that in some areas the State courts are hampered by inadequate staffing, inadequate administrative, or what the courts call “supporting,” personnel.

But, on the other side of the coin, I think one of the problems that LEAA already faces is that too many States and too many locales tend to view LEAA as an alternative source of funding and no more. And I frankly worry about that. I don't think that Congress ever intended LEAA to be simply an alternative to State and local financing.

My own impression has always been, from the original statute right down to today, that the intent of Congress is for LEAA to be imaginative, to start new programs, and, in effect, to act as a source of seed money, encouraging State and local criminal justice systems to do a better job of dealing with problems. There was never an intention just to allow LEAA to be an alternative to State and local funding.

I'm wondering, therefore, if this issue ought not to be thought about most carefully. And I'm sure it will be in the testimony of others and certainly in the deliberations of the subcommittee. For example, might it not be preferable to rewrite the statute so as to

somehow preserve the general policy against excessive expenditures for salaries, but perhaps allow exceptions in certain deserving cases, including maybe the courts? I throw that out as a suggestion, not as a specific piece of wisdom that I think is clearly correct.

I would like to turn also, Mr. Chairman, if I might, to the concern with evaluation evident in S. 3043. I don't think anybody, friend or foe of LEAA, can deny that the hope always should be for improved evaluation of projects and grants. And when I say "evaluations," I mean, of course, both prospective and retrospective.

I don't think it's being unfair to LEAA or its supporters to say that LEAA constantly has to accept criticism. It's very hard to evaluate some of these programs. Some of the experts will admit that even they can't be sure, particularly prospectively.

I wonder if the present proposal may be a little bit too difficult and cumbersome. Again, I say that with no intention of denying the point that S. 3043 is trying to make, and with which I agree, namely, that we should do anything we can, both within LEAA and, indeed, within the Department of Justice, to improve evaluation. I think that's clearly an important point. I think it might perhaps be argued that putting the major burden for evaluation on a specific official, such as the Deputy Administrator, may be too cumbersome and too particularized to make the point which clearly is intended in this proposal.

I don't press the point too far because I don't think that we should ignore what is proposed here and just, unilaterally and without more, reject it out of hand. But I raise the point and wonder whether we wouldn't be better off with a more general evaluation responsibility. I believe Mr. Velde will testify that LEAA is prepared to accept this in the best way possible and in the best spirit possible.

I'd like also to turn, Mr. Chairman, finally, if I may, to the period of reauthorization. Originally, as I understood it, when you discussed this personally on the floor back in late February, the proposal was for 3 years. In reading the language of S. 3043, I rather think that it is perhaps 2 years plus a swing quarter. I'm not sure.

But, in any case, I raise the point really for a different reason. There has been some talk that perhaps there should be a period shorter even than 3 years or 2 years. On a philosophical basis, I would like to mildly suggest two things: first of all, I know it is said by many critics of LEAA that, after all, it has been going 8 years, a great deal of money has been expended, and we still have rising crime rates.

As you yourself and other members of the subcommittee have already pointed out, not just today, but in other places, LEAA alone can't control the crime rate. I would like to add this proposition to that point that you're already made: That I really don't think that LEAA and its programs can ever be measured in terms of the rise and fall of our criminal statistics.

To begin with, to my knowledge no one in the business can ensure that these statistics are thorough and accurate even today. Second of all, I think LEAA has been most successful, despite a few failures, not in directly getting at criminal law enforcement or in any way getting in a position where they could perhaps help drive down

criminal statistics, but in bettering the procedures of the criminal justice system.

Now, our criminal justice system, as this committee well knows, is not designed to be efficient only in terms of convicting everybody who might be caught and charged with a crime. Our system is a good deal more sophisticated. We put a high premium—and we do not here, I assume, disagree on this at all—on fair procedures and due process of law, which means that our system is a good deal more difficult to run than one which is simply geared to convicting the guilty without more.

LEAA should be evaluated, I think, in terms of its contribution to the success of that system. That's one reason that I sympathize with the concern expressed here for making the courts work better in eliminating congestion and delay. Therefore, I question, given the problems of the criminal justice system in the United States and in the European countries and other countries with systems fairly similar to ours and the shape they are in, whether we, as a Nation, are really quite right in suggesting that since LEAA has been going 8 years, and hasn't reduced the crime rate, something is terribly wrong.

To put it differently, I wonder whether it's really sensible to have the Congress or anybody else evaluate LEAA if it is extended only a short period. Some have proposed, as I'm sure you know, Mr. Chairman, only a 1-year extension. Quite frankly that disturbs me, philosophically and pragmatically. I don't see how the Congress or anybody else could evaluate LEAA with some of the programs it already has underway in as short a space as 1 year. I think maybe it's worth considering the danger that an unduly curtailed extension period might only throw out the baby with the bath, even if one assumes—and certainly I have to so assume—that LEAA has had some programs that haven't worked out very well.

And finally I would say that LEAA, in my judgment, if it is to be successful at all, should be permitted, within tolerable limits, to take some chances with programs that may turn out not to mean much. Really all that we can hope to do is to take a few chances. Traveling around this country and in Europe, as I have in the last year, discussing criminal justice problems, I have learned that we're the only country in the world that at least is willing to take some chances and spend some money knowing that we may spend some money and come up with an occasional dry well.

LEAA is the method which we have chosen to do it. I think that tolerance should be allowed, even though I agree with S. 3043 and S. 2212 insofar as they suggest and command the best evaluation professionals can give to LEAA programs.

I thank you, Mr. Chairman. I'd be glad to receive any questions you or members of the committee would care to direct to me, sir.

Senator KENNEDY. Thank you very much, General Tyler. I do have some questions. But perhaps we could hear from Mr. Velde, if it's all right with Senator Hruska, and then we'll commence the questioning with both witnesses.

Mr. Velde, we want to welcome you. We want to thank you for coming here. I think all of us on this committee have recognized the

great service that you provided for one of our distinguished members of the committee, but even while you were working in that responsibility, all of us felt that you would be willing to work with us as well.

And we want to welcome you back to our hearing this morning and we look forward to your testimony.

Mr. VELDE. Thank you, sir. I have a rather lengthy prepared statement and I would like to submit it for the record, with your permission—

Senator KENNEDY. Fine.

Mr. VELDE [continuing]. And would attempt to briefly highlight some of its provisions.

Senator KENNEDY. We'll have the statement in its entirety printed in the record.

[The above referred to statement follows:]

UNITED STATES DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION



ADDITIONAL
STATEMENT
OF
RICHARD W. VELDE
ADMINISTRATOR
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

BEFORE

THE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURES
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

CONCERNING

LEGISLATION WHICH WOULD AMEND
THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

MARCH 17, 1976



Mr. Chairman, I am pleased to once again appear before the Senate Judiciary Subcommittee on Criminal Laws and Procedures to testify regarding legislation which would amend the Omnibus Crime Control and Safe Streets Act of 1968. As you are aware, on two previous occasions I presented testimony concerning the Administration's proposal to reauthorize the Law Enforcement Assistance Administration - S. 2212 - as well as related legislation before the Subcommittee. Today, I would like to mainly address S. 3043, a bill introduced on February 25, 1976, by Senator Kennedy, and wish to reaffirm our support for S. 2212.

It is of note, Mr. Chairman, that both S. 2212 and S. 3043 address several similar areas of concern regarding the LEAA program, though the perceived needs are approached in a different fashion by each measure. While LEAA and the Department of Justice can appreciate the concerns which motivated introduction of S. 3043, we feel that certain of the provisions of the legislation would have a detrimental effect on the operation of LEAA programs. We therefore oppose enactment of these provisions, and reiterate our previous position that S. 2212 is the more appropriate vehicle for reauthorizing the Agency.

S. 3043, the "Law Enforcement Improvement Act of 1976," is an alternative proposal for reauthorizing LEAA. The bill would first indicate that LEAA is to operate subject to the "policy direction and control" of the Attorney General, as well as being under his general authority.

Several amendments would be made to Part B of the current Act, dealing with planning grants. Not only would LEAA be mandated to provide constructive leadership and direction to the states in the area of planning and evaluation, but State planning agencies would be required to perform their planning and priority-setting functions at the "direction and guidance" of LEAA.

Additional provisions would be included which seek to increase the capacity of State court systems to participate in the LEAA program. Judicial representation on State planning agencies would be guaranteed, and each State chief justice would be able to designate or establish a judicial planning committee. The committee would be responsible for development of a State multi-year, comprehensive judicial plan for submission to the State planning agency, and would be authorized to conduct a number of other activities to promote the effectiveness of the judicial system.

Amendments to Part C of the Crime Control Act, which generally authorize grants for law enforcement purposes, would also address the needs of the courts. Additional authority would be provided for programs designed to strengthen courts, reduce court congestion and backlog, and improve the availability and quality of justice. Not only would LEAA and the State planning agencies be required to give special emphasis to such efforts, but one-third of Part C discretionary funds would be required to be used to promote programs to assist courts.

The plan of each judicial planning committee would be filed with both LEAA and the appropriate State planning agency. Requirements for these plans would be contained in a new section 303(d) of the Act. Included among these would be requirements that: grant application and administration be provided for; court initiative in the areas of law reform and administrative improvement be encouraged; court priorities be established, with innovations and advanced techniques being utilized; and, provision be made for research, development, and evaluation.

Each plan would be submitted to the State planning agency for review and approved if found in compliance with the law and compatible with the State comprehensive plan. If rejected by the SPA, the judicial planning committee could appeal directly to LEAA. Once approved, the plan would be incorporated into the overall State plan and funds disbursed to the committee by the SPA in accordance with procedures established by LEAA.

LEAA's role in reviewing each State's comprehensive plan would also be specified in detail by S. 3043. The Agency would have to make a written finding that the plan "reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State, and that, on the basis of evaluations made by the Administration, such plan is likely to make a significant and effective contribution to the State's efforts to deal with crime."

Another modification of Part C of the Act would be the amendment of section 303(a)(4). Major cities and urban counties, or combinations of such jurisdictions, could develop and submit their own local comprehensive plans for law enforcement and criminal justice improvement. If compatible with the State's plans, funds would be awarded directly from the State to these jurisdictions to implement their plans.

Of additional significance would be the repeal by S. 3043 of section 301(d) of the current Act. That section provides that not more than one-third of any Part C grant may be expended for the compensation of police and other regular law enforcement and criminal justice personnel.

Explicit authority would be given LEAA through another amendment to section 301(b) to develop and operate programs designed to reduce and prevent crime against elderly persons. Authority to fund such programs is already implicit in LEAA's enabling legislation, and we have, in fact, supported a number of efforts in this area.

A further amendment to Part C would specifically authorize discretionary programs "to provide funding to areas characterized by high crime incidence, high law enforcement and criminal justice activity, and serious court congestion and backlog."

Part F of the Crime Control Act, containing administrative provisions, would be revised to give the Deputy Administrator for Administration of LEAA specific responsibility regarding auditing, monitoring, and evaluation of both the comprehensiveness and impact of programs. Determinations would be made as to whether programs submitted for funding were likely to contribute to the reduction and prevention of crime and juvenile delinquency, and whether implemented programs had achieved their stated goals.

The Deputy Administrator for Administration would be responsible for the review, analysis, and evaluation of State plans to assure they take into account needed policies, priorities, and plans for reducing and preventing crime as determined by the Administration, and guarantee that Federal funds would be disbursed in a fair and reasonable manner to all components of the State and local criminal justice system. The Deputy would additionally be specifically authorized to collect, evaluate, publish and disseminate statistics regarding law enforcement, and provide technical assistance to public and private organizations and agencies.

S. 3043 would authorize the Attorney General to establish an Advisory Board to LEAA to review discretionary grant programs. Members of the Advisory Board would be chosen because of their knowledge and expertise in the area of law enforcement and criminal justice. This provision is identical to one contained in S. 2212.

The information required by section 519 of the Crime Control Act to be included in LEAA's annual report would be significantly expanded by S. 3043. Information would have to be provided regarding the following: policies, priorities, and plans of LEAA for reducing and preventing crime; procedures followed in reviewing, evaluating, and processing State plans; numbers of State plans approved, disapproved, and changed; the amount of funds not expended by the States; a detailed financial analysis of each state plan; numbers of programs discontinued by LEAA and the States because they had no appreciable impact in reducing and preventing crime; details of evaluation efforts; and, details regarding expenditures of discretionary funds.

The legislation would extend LEAA through fiscal year 1978, with a total of \$2,925,000,000 being authorized to be appropriated for the transition quarter and succeeding two fiscal years. Up to \$112,500,000 of this amount could be used to fund areas characterized by high crime incidence, high law enforcement and criminal justice activities, and serious court congestion. LEAA funds could be used for the purposes of the Juvenile Justice and Delinquency Prevention Act of 1974, and specific authorization for Congressional oversight of the LEAA program and priorities would be included in the bill.

State and Local Control of Criminal Justice

The concept that "crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively" has been strongly endorsed by the Congress on three occasions since 1968. Section 518(a) of the Crime Control Act specifically prohibits excessive federal involvement in local decisions in the following language:

Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other law enforcement and criminal justice agency of any State or any political subdivision thereof.

S. 3043, however, could work to contravene this prohibition, and effectively eliminate the block grant concept under which the LEAA program operates.

Currently, State planning agencies, under the direction of the Governor of each State, work in cooperation with units of local government and develop a plan for the expenditure of LEAA funds throughout the State for projects to improve law enforcement and strengthen the criminal justice

system. These agencies also establish priorities for improvements within each State. Under S. 3043, the State planning agencies would have to perform these functions "at the direction and guidance" of LEAA. Other provisions would make LEAA responsible for reviewing and evaluating State plans and projects to see if they were likely to make a significant and effective contribution to efforts to deal with crime, and to assure they are in line with LEAA policies, priorities, and plans for reducing and preventing crime.

These amendments appear to be a direct contradiction of Section 518(a), cited above. They mean that LEAA would direct the development of comprehensive plans in each State and direct the definition and development of projects and programs down to the local level. The Federal Government would be setting State and local priorities. It would additionally be difficult to determine in advance which programs were likely to reduce and prevent crime and to fund only those activities, while at the same time fulfilling the Congressional mandate to assist State and local operations with experimental or innovative demonstration projects.

The block grant program established by the Omnibus Crime Control and Safe Streets Act of 1968 was unique in that it allowed States and localities to participate directly in making the decisions that were to affect them. The belief that law enforcement authority is primarily reserved to State and local governments and that crime control is essentially their responsibility, is still the basic philosophy behind the LEAA program. S. 3043 would be destructive of the unique Federal, State, and local partnership which has been established.

Assistance to Courts

The judicial planning committees authorized by S. 3043 are intended to provide an alternate approach to meeting the needs of State court systems. In some States, greater court involvement would be beneficial. It should be emphasized, however, that many courts are full participants in the LEAA program and have benefited significantly from LEAA funds.

As I noted in previous testimony, a recently completed LEAA-funded project conducted by a team from the American University Law School reviewed the court-related aspects of the LEAA program in four representative States. One of the points emphasized in the report of the team is that State courts generally do not have the capability to plan for future needs. For this reason, some State court systems have not been able to participate adequately in the comprehensive planning process which is the key feature of the LEAA program.

To begin to remedy this situation and to assure that State court systems will be able to develop the necessary planning capability, one million dollars in discretionary funds were earmarked to support State court planning. We believe that this effort to expand the capacity of the courts to effectively plan is fundamental to increased participation in the program and can be addressed without altering the comprehensive state planning process. I would also call attention to the Index of Successful Court Projects previously submitted to the Subcommittee. The Index describes in some detail numerous court projects supported by LEAA either through discretionary, statistical, or research programs, or through State and local efforts. These particular projects were deemed to be successful based upon a demonstrated beneficial impact on the criminal justice system, as reported by program participants, recipients of the services provided, or independent evaluations.

LEAA has been urging increased attention to the problems of the courts since the early years of the program. At the National Conference on the Judiciary in 1971, I expressed the concern of LEAA and highlighted our recognition that the role of the courts in the entire criminal justice system is of critical importance. LEAA was identified as a possible key vehicle for improvement of State court systems, and I urged the judiciary to take a vigorous part in criminal justice planning and improvement programs. While the judiciary must be independent, it must not be insulated.

A survey of the membership of State planning agency supervisory boards completed in October 1975, indicated that direct participation of the judiciary varies from State to State. In some jurisdictions, there is a high level of judicial involvement. Examples include Maine, Kentucky, Louisiana, and Oklahoma, where about a dozen judicial members serve on the supervisory board. Regrettably, however, some other State judiciaries are reluctant to participate in the program.

In this regard, Mr. Chairman, the recent testimony of Chief Justice Howell Heflin of Alabama before the House Subcommittee on Crime is significant. Chief Justice Heflin pointed out that there is nothing in the Canons of Judicial Ethics which would prohibit judicial participation in the LEAA program. In fact, he observed, the Canons of Ethics recommend the involvement of judges on boards and groups which seek to improve the criminal justice system.

It is of note that Chief Justice Heflin has worked hard to take advantage of available LEAA assistance for the courts. Because of his efforts, Alabama now has an effective and modernized State court system, which is looked to as a model by other jurisdictions.

S. 2212 would continue placing special emphasis on improving State and local court systems by both LEAA, through discretionary funding, and the State planning agencies, through block grant funding. Moreover, Part C funds could be used to support State court planning, as well as action programs. This focus, as well as additional research authority proposed for the National Institute of Law Enforcement and Criminal Justice, should help strengthen State court systems and promote increased court involvement in the LEAA program.

The provision for judicial planning committees in S. 3043 seeks to address concerns raised before the Subcommittee on behalf of the courts.

However, there are certain questions left unanswered by the text of the bill. First, it is unclear as to where funding is to come for the judicial planning committees. Secondly, the membership of the committees is not specified. It is important to note in this regard that, if the planning committees consist only of the judiciary, the prosecution, defense, probation and other elements of the court system would have no voice in the courts planning process. Moreover, the public at large would be denied participation in this critical aspect of criminal justice planning. In contrast, the Congress specified in the 1973 reauthorization of LEAA that SPA supervisory boards must be broadly representative and must include public members.

A third issue raised by the judicial planning provision arises from the question "what would happen if both LEAA and the State planning agency were to disapprove a court plan?" A likely result would be disruption of the entire planning process and severe damage to the efficient management of LEAA program funds.

The court planning concept expressed in S. 3043 appears to provide a process consistent with the administrative needs of unified court systems. Currently, only a limited number of States have fully or partially unified courts. But what of the significant number of other States which have not chosen a unified court system? Clearly the local courts in those States could object strenuously to a Federal requirement that resource allocations be planned under the direction of State chief justices. This requirement would be viewed by many as Federal interference with the independence of the State judiciary and may conflict with State constitutional and statutory provisions concerning the autonomy of local courts.

It should also be noted that the narrow definition of "courts" in S. 3043 does not take into account the role of the prosecutor, defense, probation or other court-related interests. In many jurisdictions, these entities are major factors in court administration and management activities. The prosecution, for example, has a significant voice in establishing court calendars, scheduling trials and other related criminal proceedings, and arranging for the appearance of witnesses.

S. 3043 would further require a courts plan to cover all fund sources -- Federal, State, and local. A number of other requirements are specified for inclusion in the plan. Such requirements might have the effect of preventing judicial involvement in the LEAA program, rather than encouraging it, inasmuch as a number of court representatives have presented testimony regarding the essential need for judicial independence and maintenance of separation of powers among the different levels of government, as well as between each of the branches of government at each

level. State judiciaries have been particularly wary of the strings which accompany Federal funds.

S. 3043 would further attempt to benefit the courts by mandating that one-third of discretionary grants must be used to promote programs to assist courts. This amendment would severely limit the flexibility for innovation which was intended for LEAA regarding the 15% of Part C funds reserved for discretionary use. Given the limited amount of discretionary funds available, setting aside one-third for this narrow purpose would reduce the amount of funds which might go to other endeavors, including such items as juvenile delinquency prevention, standards and goals efforts, citizen initiative programs, and innovative demonstration projects to assist police or corrections activities. We oppose categorization of the program in such a fashion.

Generally regarding courts programs, Mr. Chairman, I would like to note that the need for independence within the three branches of government is clear when each branch is performing its primary function. Because different agencies, organizations, and entities are all component parts of the justice system, there is, however, interdependence between the branches. Activities of courts, law enforcement agencies, and correctional institutions all impact on one-another. Courts must seek funds from State legislatures. In some States, the courts budget is submitted through the State budget office, which is under the direction of the Governor.

There are, moreover, other checks and balances in operation beyond the "power of the purse." They include processes of selecting judges and establishing judicial tenure, the definition of court jurisdictions, and establishment of levels of compensation. Each of these are prescribed by State constitutions and statutes. Consequently, an assistance process is required which avoids Federal interference while promoting participation by the full criminal justice system.

The comprehensive planning process encouraged by the LEAA program recognizes this fact and assigns responsibility for Statewide planning and coordination of activities funded by LEAA to one agency in the Executive Branch of State government. This is particularly significant in light of the definition of "comprehensive" included in the 1973 Act, as follows:

The term 'comprehensive' means that the plan must be a total and integrated analysis of the problems regarding the law enforcement and criminal justice system within the State; goals, priorities, and standards must be established in the plan and the plan must address methods, organization, and operation performance, physical and human resources necessary to accomplish crime prevention, identification, detection, and apprehension of suspects; adjudication; custodial treatment of suspects and offenders, and institutional and noninstitutional rehabilitative measures.

The needs and priorities of the different components of the system are hopefully recognized in the process fostered by the Crime Control Act. When they are not, steps should be taken to increase the capabilities of that part of the system, as is being done by S. 2212.

The approach of S. 3043, on the other hand, is to address the problem by taking the courts out of the process. It does not amend the definition of the term "comprehensive" but, instead, creates a separate procedure for courts, having them develop their own plans independent of Statewide priorities. The result of this would certainly be detrimental to system-wide planning, and hurt the courts as well as other agencies within a State.

High Crime Areas

Both S. 2212 and S. 3043 attempt to address the needs of urban areas characterized by high crime incidence and high law enforcement and criminal justice activities. LEAA's experience in programs aimed at high crime areas indicates that there is a need to be even more directly responsive to the needs of these jurisdictions.

In 1970, LEAA's enabling legislation was amended to provide for the allocation of adequate assistance to deal with law enforcement problems in areas characterized by both high crime incidence and high law enforcement activity. This set the basic pattern for directing funds into areas of high crime. LEAA, through its discretionary funding, established the Pilot Cities and then the Impact Cities programs.

The Pilot Cities Program was begun as an effort to establish laboratory settings in which to conduct comprehensive research, development, testing, evaluation, and demonstration programs. The goals of the program were: to demonstrate the ability of a research and analysis team to work in the criminal justice system to improve crime reduction capabilities and the quality of justice; to institutionalize gains made; and, to understand more clearly the process by which change takes place in the criminal justice system.

While difficulties were experienced and the Pilot Cities Program phased out, there were positive accomplishments. In virtually every target city, planned and unanticipated benefits in the nature of development of planning and evaluation skills, technical assistance provided, and projects implemented, were realized.

The High Impact Anti-Crime Program is an intensive planning and action effort designed to reduce the incidence of stranger-to-stranger crime and burglary in eight American cities. Since the announcement of the program on January 13, 1972, more than \$152 million has been awarded to the eight target cities. Components of the program have included: the establishment of crime analysis teams in each city; analysis of target crimes, victims, and offenders; formulation of comprehensive

objectives for target crime reduction; development of programs and projects responding to identified needs; and, monitoring and evaluation of individual projects and overall programs. In their final phase activities, the target cities are responding to the program's goal of "institutionalizing" those capabilities and activities introduced by Impact, thus providing for a lasting contribution from an intensive short-term federal demonstration program.

Under the sponsorship of the National Institute of Law Enforcement and Criminal Justice, the Mitre Corporation conducted an intensive examination of the High Impact Anti-Crime Program. The evaluation identifies what tended to promote good planning, implementation, and evaluation, and what did not; what moved agencies toward coordination and what did not; what stimulated innovation and institutionalization and what did not; and, what new knowledge was gained from the program and what failed to be gained - any why.

In particular, the evaluation establishes what happened in the development of each city's program, speaks to the feasibility of two program innovations -- comprehensive crime-oriented planning, implementation, and evaluation, and Crime Analysis Teams -- and examines anti-crime efforts at the project level.

Because of our experience in this area, Mr. Chairman, an amendment is proposed in S. 2212 which would provide additional authorization to LEAA to provide funding of up to \$262.5 million through 1981 for special programs aimed at reducing crime in heavily populated urban areas. These funds would be in addition to funds committed by the States from LEAA block grants.

S. 3043 contains similar provisions, and would go beyond S. 2212 to permit major cities and urban counties, or combinations thereof, to develop and submit their own local plans for law enforcement and criminal justice improvement. If approved, funds would be awarded directly from the States to these jurisdictions to implement the plans.

The role of the State planning agency in approving or disapproving specific projects by the participating areas is unclear in the bill. It is also of note that there are at least 200 jurisdictions in the country with a population over 100,000 that would be eligible for such a program. In smaller States, a city with a population which exceeds four percent of the State population could request a mini-block grant. In Alaska, a city with a population of only 12,000 would be eligible. Cities of this size generally have no planning capability for effective use of the available funds.

As I have previously indicated to the Subcommittee, LEAA feels that bypassing the coordinating authority of state criminal justice planning agencies would be detrimental to the dialogue and cooperation now occurring among cities, counties, and the states. This dialogue and the comprehensiveness of criminal justice planning are among the most significant achievements of the Omnibus Crime Control and Safe Streets Act. Without comprehensive statewide planning and priority-setting, each jurisdiction would plan only for itself, with no overall objectives and goals set for the state as a whole. This would result in waste and duplication through uncoordinated efforts. It would reinforce and encourage fragmentation of the criminal justice system.

It should also be kept in mind that few urban areas operate their own complete criminal justice systems. State and county-operated court systems, state and county corrections systems, and state probation systems all impact on the law enforcement capability of an urban area. A funding system that bypassed the state would immediately provoke an imbalance in the system.

One of the key purposes of the LEAA program is to encourage states and units of general local government to develop and adopt comprehensive law enforcement and criminal justice plans based on their evaluation of state and local problems. Local input is presently an important element of the comprehensive planning process in which every state must participate in order to qualify for LEAA funds. The Omnibus Crime Control Act makes provision for involvement of localities in the decision-making process in numerous instances.

It is inappropriate for certain jurisdictions to administer funds without regard for the rest of the criminal justice system. We have learned from hard experience in the High Impact Anti-Crime Program that where there is a go-it-alone attitude on the part of any component of the criminal justice system, delay and project weakness result. Thus, it is felt that the terms of current law, together with the additional authorization contained in S. 2212 for LEAA to fund programs in urban areas characterized by high crime, provide an adequate response to the needs of cities and other jurisdictions which are seeking direct funding.

One-Third Salary Limitation

LEAA strongly opposes the proposed repeal of section 301(d) of the current Act. This section provides that not more than one-third of any Part C grant awarded to a State may be expended for compensation of police and other regular law enforcement and criminal justice

personnel. The one-third salary provision was included in the Omnibus Crime Control and Safe Streets Act because the Congress was concerned that responsibility for law enforcement not be shifted from State and Local governments. As the Senate Judiciary Committee stated in its report on the 1968 legislation: The salary limitation "is included because we fear that 'he who pays the piper calls the tune' and that dependence upon the federal government for salaries could be an easy street to federal domination and control."

I would like to submit to the Subcommittee at this time a chart indicating State and local employment and expenditure data in the criminal justice system. The high percentage of funds which goes to salaries is of note. Certainly, if the one-third salary limitation were repealed, LEAA funds would be used to subsidize this major area of local concern at the expense of innovation and modernization.

One of the major purposes of the LEAA program is to encourage States and localities to develop new methods to reduce and prevent crime and juvenile delinquency. Federal funds are intended to supplement State and local efforts, not supplant them. Thus, a provision has been included in the law to insure that LEAA funds will not be used to support salaries to an unlimited extent.

Term of Reauthorization

The Administration is requesting in S. 2212 a five year extension of the LEAA program, as opposed to S. 3043 which would authorize only two-year renewal. The types of programs ultimately funded by the States will, to a large extent, be determined by the length of reauthorization of the program. One of the key features of the LEAA program is the comprehensive planning process through which each State reviews thoroughly its law enforcement

and criminal justice programs, and sets long-range needs and priorities for resource allocation. This planning, to be effective, must necessarily have long-range implications. A two or three-year authorization would be disruptive of this planning process and allow States to give consideration only to short-term needs.

The possibility of an abbreviated LEAA program and the uncertainty of future assistance would have further adverse effects on State and local efforts. The nature of projects supported could change drastically from innovative programs expected to have permanent beneficial effects, to projects which merely continue the status quo and support normal operational expenses. Jurisdictions would be hesitant to make a commitment to many significant undertakings or hire new personnel because of the possibility of abrupt loss of support.

Short-term programs also encourage the purchase of equipment or the use of training programs by localities, since a tangible benefit lasting for some time would be guaranteed. Such projects would also have the benefit of requiring no follow-up planning or evaluation. There could additionally be a chilling effect on the raising of matching funds by localities which did not wish to make a substantial investment in a program which would possibly remain in existence for a brief period, or which might be drastically changed in nature.

Finally in this regard, Mr. Chairman, I should like to point out that the Administration's proposal for renewing LEAA's authorization was submitted in compliance with the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344). That legislation has as one of its primary objectives the development of long-range planning capability by the Federal Government. Extension of the LEAA program

for five years would be consistent with this objective and would assure stability in this aspect of Federal assistance.

Evaluation

In 1973, the National Institute of Law Enforcement and Criminal Justice was assigned major responsibility for evaluation of programs and projects funded by LEAA. This is in addition to the Institute's research and information dissemination responsibilities. As I pointed out in prior testimony, LEAA has been concerned with evaluation since its inception. In response to the mandate of the Crime Control Act of 1973, the Institute initiated a far-reaching evaluation program encompassing all program areas. S. 2212 would upgrade the importance of these activities even further by having the Director of the Institute appointed by the Attorney General.

Instead of improving upon the mechanism the Congress has already chosen for evaluation of LEAA programs, S. 3043 would downgrade the Institute and give duplicative authority to the Deputy Administrator for Administration of LEAA. Such a fragmentation of authority and responsibility could only be harmful to the Agency's operations. It would also ignore the progress which LEAA has continued to make in a very difficult and challenging area. Just last month, in fact, an internal Evaluation Policy Working Group completed an in-depth assessment of evaluation activities and submitted its final report. The findings of the review are quite promising and several new initiatives are being implemented. For the full information of the Subcommittee, I have included as an appendix to my statement a brief summary of the findings and recommendations of the Evaluation Policy Working Group.

Additional Red Tape

Finally, Mr. Chairman, I would like to note the complaints of certain witnesses before the Subcommittee to the effect that there is excessive "red tape" involved in the administration of the LEAA grant program. While I pointed out in prior testimony that regrettable and unforeseen difficulties have arisen and caused delay to certain applicants in some instances. I also stated my belief - and supplied supporting documentation to the Subcommittee - that the program has been administered effectively and efficiently.

The proposed amendments authorizing additional LEAA direction and control over State and local activities, and the requirement of new regulations to implement these provisions, particularly as necessitated by section 15 of S. 3043, would certainly cause increased administrative burdens on all jurisdictions. Similar requirements and red tape would result from the increased reporting requirements mandated by section 17 of the bill. As an attachment to my statement, I have submitted diagrams of the block grant process as it now operates and as it would appear following the addition of the complex requirements of S. 3043.

The new requirements for LEAA's annual report could significantly increase the amount of administrative red tape involved in the program, and would consume many man-hours of time and effort which could more productively be devoted to assisting State and local criminal justice. The volume of material which would have to be included in the report would be massive.

Detailed explanations would have to be provided regarding LEAA procedures and numbers of State plans approved, disapproved, and changed. Data

on individual projects and fund expenditure would also have to be provided. The development of such information in detail each year would require extensive additional efforts by State and local, as well as LEAA personnel, to the extent that these persons would become merely grant administrators and form completers, rather than criminal justice planners.

The detailed annual financial analysis of each State comprehensive plan would be extremely impractical and burdensome. The plan of each State is usually at least the size of a major city's telephone book. The plan speaks in general terms of needs and priorities, with supporting statistical data, not in terms of dollars to be expended. Financial analysis is possible only after applications for funding have been acted on at the State level.

Because of the difference of S. 3043 from the Administration's proposal to reauthorize LEAA, and because of the significant objections I have noted, the Administration recommends against enactment of S. 3043.

Thank you, Mr. Chairman, I would now be pleased to respond to any questions you or the members of the Subcommittee might have.

APPENDIX I TO STATEMENT OF RICHARD VELDE

EXECUTIVE SUMMARY
OF
THE REPORT OF THE LEAA EVALUATION POLICY WORKING GROUP

February, 1976

U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

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I. OVERVIEW AND BACKGROUND OF THE REPORT

A. Purpose of the Report

The Report of the LEAA Evaluation Policy Working Group (EPWG) has two aims. It is designed to provide to the LEAA Administrator an assessment of the progress LEAA has made in evaluation. It also offers the Administrator a set of recommendations designed to assure that further progress can be made in an orderly and efficient way.

The report responds to a mandate from the Administrator to do these two things. At the request of Richard W. Velde, the LEAA Administrator, the Office of Planning and Management organized a two day Evaluation Policy Issues Conference in September, 1975. The conference was asked to assess progress in developing and implementing evaluation policy and program since the issuance of the report of the LEAA Evaluation Policy Task Force in March, 1974. The conference was also asked to identify issues and suggest ways in which those issues could be addressed.

The conference performed its tasks, and resulted in the establishment of another group, the Evaluation Policy Working Group, which was instructed to take the list of issues and the assessment made of progress which the conference produced, and, after consideration, produce a list of specific recommendations for action. The Evaluation Policy Working Group (EPWG), which met from mid-September to mid-November, has concluded its task and presented a series of specific action recommendations to the Administrator in January, 1976. The Administrator acted on the recommendations early in February, 1976.

B. Summary of Major Findings

The final report of the EPWG expressed a high degree of consensus on the following seven propositions:

1. LEAA has made substantial progress since March, 1974, developing and implementing a wide range of highly significant evaluation programs in pursuit of each of the three evaluation goals of the earlier task force: The Knowledge Goal, the Development Goal, and the Management Goal.
2. In order that further progress can be made, office roles and responsibilities in the evaluation area need to be clarified.

3. Given a need to evaluate selected discretionary programs evaluators need to be involved in program design when that process begins, as well as in design of the evaluation component of the programs to be evaluated.
 4. If evaluation results are to be used, everyone must understand that the question of uses of evaluation must be addressed when programs are in the design stage, and must be addressed by management, as it considers what it is that management wants to learn. Further, if evaluation results are to be used there must be some capability within LEAA to analyze the findings of evaluations and to interpret their meaning for program alteration, new program development, further research or evaluation work, and other kinds of management decision-making.
 5. Since LEAA has limited staff resources for evaluation itself, major efforts need to be made, through training and technical assistance, to assist the SPAs and RPUs to develop evaluation capability. While training is now a function of the Office of Operations Support (Training Division) where there are adequate funds to begin this task, technical assistance is neither adequately funded nor appropriately placed, where it now is, in the Office of Evaluation.
 6. Once the Administrator has acted on the EPWG recommendations, the action he has taken needs to be codified and developed into a policy statement for the agency to guide its staff.
 7. The Office of Planning and Management needs to monitor carefully the evaluation program which results from the Administrator's actions on these recommendations.
- C. Background: The Evaluation Policy Task Force Report and the Evaluation Policy Issues Conference
1. The Need for an 18-Month Assessment
The Evaluation Policy Task Force Report, completed in March, 1974, marks the beginning of LEAA's major evaluation effort. While some major evaluations preceded that report, most of the agency's evaluation work followed from that report.

In September, 1975, eighteen months after the report, the Administrator asked for an assessment of progress. That assessment initially involved a major conference held September 10-11, 1975. The specific objectives of that conference were:

- a. To review the current level of evaluation activity carried out by all LEAA offices;
- b. To assess the extent to which the recommendations and evaluation programs contained in the report of the LEAA Evaluation Policy Task Force in March, 1974 had been implemented;
- c. To assess the present roles and functions of the various LEAA organizational components in the area of LEAA evaluation policy development and implementation and in the management of LEAA evaluation programs;
- d. To identify any major evaluation policy issues which had developed since March, 1974 and to propose actions to be taken for the resolution of issues identified, if any.

At the September conference all major LEAA headquarter offices having a role in the evaluation area were represented as well as three regional offices.

2. The Issues Identified at the September Conference

As the participants at the September conference proceeded through the task of assessing the current state of evaluation activities within LEAA, it became evident that there were policy and implementation issues in the LEAA evaluation program which needed resolution.

The conference concluded by developing an inventory of major evaluation issues which need resolution so that the agency's evaluation program can continue to develop and become steadily more effective. The issues identified at the conference clustered around the following four broad evaluation topics:

- a. Management of the LEAA Evaluation Program: Discussion centered around the topic of the roles and responsibilities which the various LEAA offices should and must play in order to assure orderly and coordinated implementation of the LEAA evaluation program;
- b. Utilization of Evaluation Findings in Agency Decision-Making: Conference participants identified a need for a better organized, more systematic mechanism for ensuring that the findings of completed evaluations were made available to managers within LEAA in a form designed to aid decision making, and were also disseminated effectively to those outside LEAA.
- c. Evaluation Methodology: Methodological issues were also identified as an area needing attention. These were seen as related to criteria for the selection of programs and/or projects for evaluation and vehicles for ensuring that performance measurement and evaluability are built into selected LEAA programs.
- d. The Development of an SPA Monitoring/Evaluation Capacity Building Strategy for FY 76-77: The intergovernmental structure of the LEAA program requires a concerted effort by the Federal government to build the capability to monitor and evaluate criminal justice programs at the state and local levels. LEAA efforts have been limited in this area. Many of the recommendations proposed by the initial Task Force Report and designed for the purpose of building this evaluation capacity at the state and local levels had been implemented in only a limited fashion.

D. The Evaluation Policy Working Group: Mandate, Composition, Methods

In view of the substantial number and substantive importance of these issue areas, the Evaluation Policy Issues Conference recommended the creation of an Evaluation Policy Working Group to conduct a comprehensive review of the issues which had been developed and to prepare a report and detailed recommendations for their resolution.

1. Mandate

On September 17, 1975, the Deputy Administrator for Administration established the recommended Evaluation Policy Working Group (EPWG) with the specific mandate of building on the earlier work of the Evaluation Policy Task Force (March, 1974), making recommendations for the resolution of the evaluation issues identified at the September conference and preparing a final report to the Administrator containing proposals for specific next steps.

2. Membership

Membership on the EPWG was limited only to those LEAA offices with a major role in the implementation of the LEAA Evaluation Program and to representation from one LEAA Regional Office.

In addition, the EPWG was supported by Mr. Joseph Wholey, the Urban Institute, who was a technical adviser, and who was asked to comment during the working group meetings, develop written recommendations and observations to the working group, and comment on the draft report of the working group.

The working group met weekly following its constitution in mid-September. It completed its work and submitted a final report to the Administrator in January, 1976.

- II. THE REPORT'S ASSESSMENT OF THE STATUS OF EVALUATION IN LEAA:
HOW FAR HAVE WE COME?
- A. Where We Began: Evaluation Policy in LEAA Through March, 1974
 - B. Where We Are Now: Status of the LEAA Evaluation Programs
Today

II. THE REPORT'S ASSESSMENT OF THE STATUS OF EVALUATION IN LEAA: HOW FAR HAVE WE COME?

A. Where We Began: Evaluation Policy in LEAA Through March, 1974

I. Historical Background and Legislative Mandate

Although the legislative mandate for LEAA's evaluation effort is contained in the 1973 amendments to the agency's legislation (P.L. 93-83), and in the Juvenile Justice and Delinquency Prevention Act of 1974, LEAA had begun to evaluate selected projects itself much earlier, and had also strongly encouraged evaluation by State Planning Agencies beginning in 1971. In 1972 LEAA initiated a major evaluation of the eight impact cities. Thus, while there was no major mandate in the legislation prior to 1973, LEAA had earlier recognized the need for evaluation and had taken steps to build evaluation into selected programs.

The Crime Control Act of 1973 provided further impetus for evaluation in the agency. It required that comprehensive law enforcement and criminal justice plans provide for "such ... monitoring and evaluation procedures as may be necessary", and it also required that the research arm of the agency, the National Institute of Law Enforcement and Criminal Justice, should undertake "where possible, to evaluate the various programs and projects" for the purpose of determining "their impact and the extent to which they have met or failed to meet the purposes and policies" of the Crime Control Act. The results of evaluations are to be disseminated to State Planning Agencies and, upon request, to local governments.

A year later, the Congress added further evaluation responsibilities to LEAA when it passed the Juvenile Justice and Delinquency Prevention Act. The state plans required under this Act must provide for development of an "adequate evaluation capacity" within the State, and for an annual analysis and evaluation of program and project results. Further, the Act requires that programs funded under the Act are to continue unless the yearly evaluation of programs is unsatisfactory.

2. Evaluation Task Force and Its Policy Recommendations

Following the enactment of the new evaluation mandate in the Crime Control Act of 1973, LEAA established an evaluation task force whose task it was to develop recommendations for evaluation policy, programs, and responsibilities within LEAA and in the State Planning Agencies.

The Task Force was instructed to build upon previous LEAA evaluation efforts and respond directly to the new requirements for evaluation mandated by the Crime Control Act of 1973. The Task Force was authorized to develop a comprehensive evaluation program which would enable LEAA to identify valid, successful criminal justice programs and practices and would further the state of the art in evaluation of Federal social programs.

Members of the Evaluation Policy Task Force were appointed from all levels of LEAA, including the SPAs. This broad representation was designed both to enable input from all vital sources and to demonstrate LEAA's deep commitment to Federal-state partnership in the implementation of the LEAA program.

The Evaluation Policy Task Force completed its work and submitted a final report to the Administrator, as scheduled, on March 1, 1974. In general, the Task Force formulated three general evaluation goals for LEAA. These three goals were defined as follows:

- a. To develop information on the effectiveness of criminal justice programs and practices -- a knowledge goal,
- b. To have all LEAA program managers employ management practices which use evaluative information in the formulation and direction of their activities -- a management goal, and
- c. To encourage all agencies in the criminal justice system to develop and utilize such evaluation capabilities -- a development goal.

Once these three goals were chosen, programs were structured to achieve them. Funding mechanisms and model guidelines were drafted to implement them and the roles of each part of LEAA with respect to each program were analyzed. In summary, the three programs which were developed by the Task Force were designed to operate as follows:

1. The Knowledge Program. The Knowledge Program has a strong national focus in its operation and utility. Basically, it recognizes that certain types of information can best be produced through a nationally coordinated evaluation. Yet it is designed to capitalize on the action grant program by building the evaluation designs around the operating projects. The results of the program are expected to be of use to a national audience of criminal justice system planners and decision makers and to meet the Congressional mandate to identify what has been learned about reducing crime through the LEAA program.
2. The Management Program. The program for the Management Goal was designed to insure that evaluation becomes an integral part of the management process for each administrative level of LEAA. In particular, detailed guidelines were developed for SPAs to follow in developing their evaluation program and their annual comprehensive plan. However, similar requirements for performing and utilizing evaluation in the management of their activities were recommended for all LEAA offices as well. The Office of Planning and Management was to be responsible for coordinating and assessing the effectiveness of this program.
3. The Development Program. The Development Program aimed at building evaluation capabilities in LEAA and in the entire criminal justice system. The program was designed to incorporate and coordinate a variety of activities, including training, technical assistance, and supporting model evaluations at various levels of LEAA and in the criminal justice system. All of the activities of the Knowledge and Management programs are structured to be maximally useful to the criminal justice community.

In summary then, the initial Evaluation Policy Task Force articulated evaluation policy goals for LEAA, designed programs for the attainment of those broad goals and assigned office roles and responsibilities in the further development of LEAA evaluation policy and in the implementation of the recommended evaluation programs.

The plan of each judicial planning committee would be filed with both LEAA and the appropriate State planning agency. Requirements for these plans would be contained in a new section 303(d) of the Act. Included among these would be requirements that: grant application and administration be provided for; court initiative in the areas of law reform and administrative improvement be encouraged; court priorities be established, with innovations and advanced techniques being utilized; and, provision be made for research, development, and evaluation.

Each plan would be submitted to the State planning agency for review and approved if found in compliance with the law and compatible with the State comprehensive plan. If rejected by the SPA, the judicial planning committee could appeal directly to LEAA. Once approved, the plan would be incorporated into the overall State plan and funds disbursed to the committee by the SPA in accordance with procedures established by LEAA.

LEAA's role in reviewing each State's comprehensive plan would also be specified in detail by S. 3043. The Agency would have to make a written finding that the plan "reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State, and that, on the basis of evaluations made by the Administration, such plan is likely to make a significant and effective contribution to the State's efforts to deal with crime."

Another modification of Part C of the Act would be the amendment of section 303(a)(4). Major cities and urban counties, or combinations of such jurisdictions, could develop and submit their own local comprehensive plans for law enforcement and criminal justice improvement. If compatible with the State's plans, funds would be awarded directly from the State to these jurisdictions to implement their plans.

Of additional significance would be the repeal by S. 3043 of section 301(d) of the current Act. That section provides that not more than one-third of any Part C grant may be expended for the compensation of police and other regular law enforcement and criminal justice personnel.

Explicit authority would be given LEAA through another amendment to section 301(b) to develop and operate programs designed to reduce and prevent crime against elderly persons. Authority to fund such programs is already implicit in LEAA's enabling legislation, and we have, in fact, supported a number of efforts in this area.

A further amendment to Part C would specifically authorize discretionary programs "to provide funding to areas characterized by high crime incidence, high law enforcement and criminal justice activity, and serious court congestion and backlog."

Part F of the Crime Control Act, containing administrative provisions, would be revised to give the Deputy Administrator for Administration of LEAA specific responsibility regarding auditing, monitoring, and evaluation of both the comprehensiveness and impact of programs. Determinations would be made as to whether programs submitted for funding were likely to contribute to the reduction and prevention of crime and juvenile delinquency, and whether implemented programs had achieved their stated goals.

The Deputy Administrator for Administration would be responsible for the review, analysis, and evaluation of State plans to assure they take into account needed policies, priorities, and plans for reducing and preventing crime as determined by the Administration, and guarantee that Federal funds would be disbursed in a fair and reasonable manner to all components of the State and local criminal justice system. The Deputy would additionally be specifically authorized to collect, evaluate, publish and disseminate statistics regarding law enforcement, and provide technical assistance to public and private organizations and agencies.

S. 3043 would authorize the Attorney General to establish an Advisory Board to LEAA to review discretionary grant programs. Members of the Advisory Board would be chosen because of their knowledge and expertise in the area of law enforcement and criminal justice. This provision is identical to one contained in S. 2212.

The information required by section 519 of the Crime Control Act to be included in LEAA's annual report would be significantly expanded by S. 3043. Information would have to be provided regarding the following: policies, priorities, and plans of LEAA for reducing and preventing crime; procedures followed in reviewing, evaluating, and processing State plans; numbers of State plans approved, disapproved, and changed; the amount of funds not expended by the States; a detailed financial analysis of each state plan; numbers of programs discontinued by LEAA and the States because they had no appreciable impact in reducing and preventing crime; details of evaluation efforts; and, details regarding expenditures of discretionary funds.

The legislation would extend LEAA through fiscal year 1978, with a total of \$2,925,000,000 being authorized to be appropriated for the transition quarter and succeeding two fiscal years. Up to \$112,500,000 of this amount could be used to fund areas characterized by high crime incidence, high law enforcement and criminal justice activities, and serious court congestion. LEAA funds could be used for the purposes of the Juvenile Justice and Delinquency Prevention Act of 1974, and specific authorization for Congressional oversight of the LEAA program and priorities would be included in the bill.

State and Local Control of Criminal Justice

The concept that "crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively" has been strongly endorsed by the Congress on three occasions since 1968. Section 518(a) of the Crime Control Act specifically prohibits excessive federal involvement in local decisions in the following language:

Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other law enforcement and criminal justice agency of any State or any political subdivision thereof.

S. 3043, however, could work to contravene this prohibition, and effectively eliminate the block grant concept under which the LEAA program operates.

Currently, State planning agencies, under the direction of the Governor of each State, work in cooperation with units of local government and develop a plan for the expenditure of LEAA funds throughout the State for projects to improve law enforcement and strengthen the criminal justice

system. These agencies also establish priorities for improvements within each State. Under S. 3043, the State planning agencies would have to perform these functions "at the direction and guidance" of LEAA. Other provisions would make LEAA responsible for reviewing and evaluating State plans and projects to see if they were likely to make a significant and effective contribution to efforts to deal with crime, and to assure they are in line with LEAA policies, priorities, and plans for reducing and preventing crime.

These amendments appear to be a direct contradiction of Section 518(a), cited above. They mean that LEAA would direct the development of comprehensive plans in each State and direct the definition and development of projects and programs down to the local level. The Federal Government would be setting State and local priorities. It would additionally be difficult to determine in advance which programs were likely to reduce and prevent crime and to fund only those activities, while at the same time fulfilling the Congressional mandate to assist State and local operations with experimental or innovative demonstration projects.

The block grant program established by the Omnibus Crime Control and Safe Streets Act of 1968 was unique in that it allowed States and localities to participate directly in making the decisions that were to affect them. The belief that law enforcement authority is primarily reserved to State and local governments and that crime control is essentially their responsibility, is still the basic philosophy behind the LEAA program. S. 3043 would be destructive of the unique Federal, State, and local partnership which has been established.

Assistance to Courts

The judicial planning committees authorized by S. 3043 are intended to provide an alternate approach to meeting the needs of State court systems. In some States, greater court involvement would be beneficial. It should be emphasized, however, that many courts are full participants in the LEAA program and have benefited significantly from LEAA funds.

As I noted in previous testimony, a recently completed LEAA-funded project conducted by a team from the American University Law School reviewed the court-related aspects of the LEAA program in four representative States. One of the points emphasized in the report of the team is that State courts generally do not have the capability to plan for future needs. For this reason, some State court systems have not been able to participate adequately in the comprehensive planning process which is the key feature of the LEAA program.

To begin to remedy this situation and to assure that State court systems will be able to develop the necessary planning capability, one million dollars in discretionary funds were earmarked to support State court planning. We believe that this effort to expand the capacity of the courts to effectively plan is fundamental to increased participation in the program and can be addressed without altering the comprehensive state planning process. I would also call attention to the Index of Successful Court Projects previously submitted to the Subcommittee. The Index describes in some detail numerous court projects supported by LEAA either through discretionary, statistical, or research programs, or through State and local efforts. These particular projects were deemed to be successful based upon a demonstrated beneficial impact on the criminal justice system, as reported by program participants, recipients of the services provided, or independent evaluations.

LEAA has been urging increased attention to the problems of the courts since the early years of the program. At the National Conference on the Judiciary in 1971, I expressed the concern of LEAA and highlighted our recognition that the role of the courts in the entire criminal justice system is of critical importance. LEAA was identified as a possible key vehicle for improvement of State court systems, and I urged the judiciary to take a vigorous part in criminal justice planning and improvement programs. While the judiciary must be independent, it must not be insulated.

A survey of the membership of State planning agency supervisory boards completed in October 1975, indicated that direct participation of the judiciary varies from State to State. In some jurisdictions, there is a high level of judicial involvement. Examples include Maine, Kentucky, Louisiana, and Oklahoma, where about a dozen judicial members serve on the supervisory board. Regrettably, however, some other State judiciaries are reluctant to participate in the program.

In this regard, Mr. Chairman, the recent testimony of Chief Justice Howell Heflin of Alabama before the House Subcommittee on Crime is significant. Chief Justice Heflin pointed out that there is nothing in the Canons of Judicial Ethics which would prohibit judicial participation in the LEAA program. In fact, he observed, the Canons of Ethics recommend the involvement of judges on boards and groups which seek to improve the criminal justice system.

It is of note that Chief Justice Heflin has worked hard to take advantage of available LEAA assistance for the courts. Because of his efforts, Alabama now has an effective and modernized State court system, which is looked to as a model by other jurisdictions.

S. 2212 would continue placing special emphasis on improving State and local court systems by both LEAA, through discretionary funding, and the State planning agencies, through block grant funding. Moreover, Part C funds could be used to support State court planning, as well as action programs. This focus, as well as additional research authority proposed for the National Institute of Law Enforcement and Criminal Justice, should help strengthen State court systems and promote increased court involvement in the LEAA program.

The provision for judicial planning committees in S. 3043 seeks to address concerns raised before the Subcommittee on behalf of the courts.

However, there are certain questions left unanswered by the text of the bill. First, it is unclear as to where funding is to come for the judicial planning committees. Secondly, the membership of the committees is not specified. It is important to note in this regard that, if the planning committees consist only of the judiciary, the prosecution, defense, probation and other elements of the court system would have no voice in the courts planning process. Moreover, the public at large would be denied participation in this critical aspect of criminal justice planning. In contrast, the Congress specified in the 1973 reauthorization of LEAA that SPA supervisory boards must be broadly representative and must include public members.

A third issue raised by the judicial planning provision arises from the question "what would happen if both LEAA and the State planning agency were to disapprove a court plan?" A likely result would be disruption of the entire planning process and severe damage to the efficient management of LEAA program funds.

The court planning concept expressed in S. 3043 appears to provide a process consistent with the administrative needs of unified court systems. Currently, only a limited number of States have fully or partially unified courts. But what of the significant number of other States which have not chosen a unified court system? Clearly the local courts in those States could object strenuously to a Federal requirement that resource allocations be planned under the direction of State chief justices. This requirement would be viewed by many as Federal interference with the independence of the State judiciary and may conflict with State constitutional and statutory provisions concerning the autonomy of local courts.

It should also be noted that the narrow definition of "courts" in S. 3043 does not take into account the role of the prosecutor, defense, probation or other court-related interests. In many jurisdictions, these entities are major factors in court administration and management activities. The prosecution, for example, has a significant voice in establishing court calendars, scheduling trials and other related criminal proceedings, and arranging for the appearance of witnesses.

S. 3043 would further require a courts plan to cover all fund sources -- Federal, State, and local. A number of other requirements are specified for inclusion in the plan. Such requirements might have the effect of preventing judicial involvement in the LEAA program, rather than encouraging it, inasmuch as a number of court representatives have presented testimony regarding the essential need for judicial independence and maintenance of separation of powers among the different levels of government, as well as between each of the branches of government at each

level. State judiciaries have been particularly wary of the strings which accompany Federal funds.

S. 3043 would further attempt to benefit the courts by mandating that one-third of discretionary grants must be used to promote programs to assist courts. This amendment would severely limit the flexibility for innovation which was intended for LEAA regarding the 15% of Part C funds reserved for discretionary use. Given the limited amount of discretionary funds available, setting aside one-third for this narrow purpose would reduce the amount of funds which might go to other endeavors, including such items as juvenile delinquency prevention, standards and goals efforts, citizen initiative programs, and innovative demonstration projects to assist police or corrections activities. We oppose categorization of the program in such a fashion.

Generally regarding courts programs, Mr. Chairman, I would like to note that the need for independence within the three branches of government is clear when each branch is performing its primary function. Because different agencies, organizations, and entities are all component parts of the justice system, there is, however, interdependence between the branches. Activities of courts, law enforcement agencies, and correctional institutions all impact on one-another. Courts must seek funds from State legislatures. In some States, the courts budget is submitted through the State budget office, which is under the direction of the Governor.

There are, moreover, other checks and balances in operation beyond the "power of the purse." They include processes of selecting judges and establishing judicial tenure, the definition of court jurisdictions, and establishment of levels of compensation. Each of these are prescribed by State constitutions and statutes. Consequently, an assistance process is required which avoids Federal interference while promoting participation by the full criminal justice system.

The comprehensive planning process encouraged by the LEAA program recognizes this fact and assigns responsibility for Statewide planning and coordination of activities funded by LEAA to one agency in the Executive Branch of State government. This is particularly significant in light of the definition of "comprehensive" included in the 1973 Act, as follows:

The term 'comprehensive' means that the plan must be a total and integrated analysis of the problems regarding the law enforcement and criminal justice system within the State; goals, priorities, and standards must be established in the plan and the plan must address methods, organization, and operation performance, physical and human resources necessary to accomplish crime prevention, identification, detection, and apprehension of suspects; adjudication; custodial treatment of suspects and offenders, and institutional and noninstitutional rehabilitative measures.

The needs and priorities of the different components of the system are hopefully recognized in the process fostered by the Crime Control Act. When they are not, steps should be taken to increase the capabilities of that part of the system, as is being done by S. 2212.

The approach of S. 3043, on the other hand, is to address the problem by taking the courts out of the process. It does not amend the definition of the term "comprehensive" but, instead, creates a separate procedure for courts, having them develop their own plans independent of Statewide priorities. The result of this would certainly be detrimental to system-wide planning, and hurt the courts as well as other agencies within a State.

High Crime Areas

Both S. 2212 and S. 3043 attempt to address the needs of urban areas characterized by high crime incidence and high law enforcement and criminal justice activities. LEAA's experience in programs aimed at high crime areas indicates that there is a need to be even more directly responsive to the needs of these jurisdictions.

In 1970, LEAA's enabling legislation was amended to provide for the allocation of adequate assistance to deal with law enforcement problems in areas characterized by both high crime incidence and high law enforcement activity. This set the basic pattern for directing funds into areas of high crime. LEAA, through its discretionary funding, established the Pilot Cities and then the Impact Cities programs.

The Pilot Cities Program was begun as an effort to establish laboratory settings in which to conduct comprehensive research, development, testing, evaluation, and demonstration programs. The goals of the program were: to demonstrate the ability of a research and analysis team to work in the criminal justice system to improve crime reduction capabilities and the quality of justice; to institutionalize gains made; and, to understand more clearly the process by which change takes place in the criminal justice system.

While difficulties were experienced and the Pilot Cities Program phased out, there were positive accomplishments. In virtually every target city, planned and unanticipated benefits in the nature of development of planning and evaluation skills, technical assistance provided, and projects implemented, were realized.

The High Impact Anti-Crime Program is an intensive planning and action effort designed to reduce the incidence of stranger-to-stranger crime and burglary in eight American cities. Since the announcement of the program on January 13, 1972, more than \$152 million has been awarded to the eight target cities. Components of the program have included: the establishment of crime analysis teams in each city; analysis of target crimes, victims, and offenders; formulation of comprehensive

objectives for target crime reduction; development of programs and projects responding to identified needs; and, monitoring and evaluation of individual projects and overall programs. In their final phase activities, the target cities are responding to the program's goal of "institutionalizing" those capabilities and activities introduced by Impact, thus providing for a lasting contribution from an intensive short-term federal demonstration program.

Under the sponsorship of the National Institute of Law Enforcement and Criminal Justice, the Mitre Corporation conducted an intensive examination of the High Impact Anti-Crime Program. The evaluation identifies what tended to promote good planning, implementation, and evaluation, and what did not; what moved agencies toward coordination and what did not; what stimulated innovation and institutionalization and what did not; and, what new knowledge was gained from the program and what failed to be gained - any why.

In particular, the evaluation establishes what happened in the development of each city's program, speaks to the feasibility of two program innovations -- comprehensive crime-oriented planning, implementation, and evaluation, and Crime Analysis Teams -- and examines anti-crime efforts at the project level.

Because of our experience in this area, Mr. Chairman, an amendment is proposed in S. 2212 which would provide additional authorization to LEAA to provide funding of up to \$262.5 million through 1981 for special programs aimed at reducing crime in heavily populated urban areas. These funds would be in addition to funds committed by the States from LEAA block grants.

S. 3043 contains similar provisions, and would go beyond S. 2212 to permit major cities and urban counties, or combinations thereof, to develop and submit their own local plans for law enforcement and criminal justice improvement. If approved, funds would be awarded directly from the States to these jurisdictions to implement the plans.

The role of the State planning agency in approving or disapproving specific projects by the participating areas is unclear in the bill. It is also of note that there are at least 200 jurisdictions in the country with a population over 100,000 that would be eligible for such a program. In smaller States, a city with a population which exceeds four percent of the State population could request a mini-block grant. In Alaska, a city with a population of only 12,000 would be eligible. Cities of this size generally have no planning capability for effective use of the available funds.

As I have previously indicated to the Subcommittee, LEAA feels that bypassing the coordinating authority of state criminal justice planning agencies would be detrimental to the dialogue and cooperation now occurring among cities, counties, and the states. This dialogue and the comprehensiveness of criminal justice planning are among the most significant achievements of the Omnibus Crime Control and Safe Streets Act. Without comprehensive statewide planning and priority-setting, each jurisdiction would plan only for itself, with no overall objectives and goals set for the state as a whole. This would result in waste and duplication through uncoordinated efforts. It would reinforce and encourage fragmentation of the criminal justice system.

It should also be kept in mind that few urban areas operate their own complete criminal justice systems. State and county-operated court systems, state and county corrections systems, and state probation systems all impact on the law enforcement capability of an urban area. A funding system that bypassed the state would immediately provoke an imbalance in the system.

One of the key purposes of the LEAA program is to encourage states and units of general local government to develop and adopt comprehensive law enforcement and criminal justice plans based on their evaluation of state and local problems. Local input is presently an important element of the comprehensive planning process in which every state must participate in order to qualify for LEAA funds. The Omnibus Crime Control Act makes provision for involvement of localities in the decision-making process in numerous instances.

It is inappropriate for certain jurisdictions to administer funds without regard for the rest of the criminal justice system. We have learned from hard experience in the High Impact Anti-Crime Program that where there is a go-it-alone attitude on the part of any component of the criminal justice system, delay and project weakness result. Thus, it is felt that the terms of current law, together with the additional authorization contained in S. 2212 for LEAA to fund programs in urban areas characterized by high crime, provide an inadequate response to the needs of cities and other jurisdictions which are seeking direct funding.

One-Third Salary Limitation

LEAA strongly opposes the proposed repeal of section 301(d) of the current Act. This section provides that not more than one-third of any Part C grant awarded to a State may be expended for compensation of police and other regular law enforcement and criminal justice

personnel. The one-third salary provision was included in the Omnibus Crime Control and Safe Streets Act because the Congress was concerned that responsibility for law enforcement not be shifted from State and local governments. As the Senate Judiciary Committee stated in its report on the 1968 legislation: The salary limitation "is included because we fear that 'he who pays the piper calls the tune' and that dependence upon the federal government for salaries could be an easy street to federal domination and control."

I would like to submit to the Subcommittee at this time a chart indicating State and local employment and expenditure data in the criminal justice system. The high percentage of funds which goes to salaries is of note. Certainly, if the one-third salary limitation were repealed, LEAA funds would be used to subsidize this major area of local concern at the expense of innovation and modernization.

One of the major purposes of the LEAA program is to encourage States and localities to develop new methods to reduce and prevent crime and juvenile delinquency. Federal funds are intended to supplement State and local efforts, not supplant them. Thus, a provision has been included in the law to insure that LEAA funds will not be used to support salaries to an unlimited extent.

Term of Reauthorization

The Administration is requesting in S. 2212 a five year extension of the LEAA program, as opposed to S. 3043 which would authorize only two-year renewal. The types of programs ultimately funded by the States will, to a large extent, be determined by the length of reauthorization of the program. One of the key features of the LEAA program is the comprehensive planning process through which each State reviews thoroughly its law enforcement

and criminal justice programs, and sets long-range needs and priorities for resource allocation. This planning, to be effective, must necessarily have long-range implications. A two or three-year authorization would be disruptive of this planning process and allow States to give consideration only to short-term needs.

The possibility of an abbreviated LEAA program and the uncertainty of future assistance would have further adverse effects on State and local efforts. The nature of projects supported could change drastically from innovative programs expected to have permanent beneficial effects, to projects which merely continue the status quo and support normal operational expenses. Jurisdictions would be hesitant to make a commitment to many significant undertakings or hire new personnel because of the possibility of abrupt loss of support.

Short-term programs also encourage the purchase of equipment or the use of training programs by localities, since a tangible benefit lasting for some time would be guaranteed. Such projects would also have the benefit of requiring no follow-up planning or evaluation. There could additionally be a chilling effect on the raising of matching funds by localities which did not wish to make a substantial investment in a program which would possibly remain in existence for a brief period, or which might be drastically changed in nature.

Finally in this regard, Mr. Chairman, I should like to point out that the Administration's proposal for renewing LEAA's authorization was submitted in compliance with the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344). That legislation has as one of its primary objectives the development of long-range planning capability by the Federal Government. Extension of the LEAA program

for five years would be consistent with this objective and would assure stability in this aspect of Federal assistance.

Evaluation

In 1973, the National Institute of Law Enforcement and Criminal Justice was assigned major responsibility for evaluation of programs and projects funded by LEAA. This is in addition to the Institute's research and information dissemination responsibilities. As I pointed out in prior testimony, LEAA has been concerned with evaluation since its inception. In response to the mandate of the Crime Control Act of 1973, the Institute initiated a far-reaching evaluation program encompassing all program areas. S. 2212 would upgrade the importance of these activities even further by having the Director of the Institute appointed by the Attorney General.

Instead of improving upon the mechanism the Congress has already chosen for evaluation of LEAA programs, S. 3043 would downgrade the Institute and give duplicative authority to the Deputy Administrator for Administration of LEAA. Such a fragmentation of authority and responsibility could only be harmful to the Agency's operations. It would also ignore the progress which LEAA has continued to make in a very difficult and challenging area. Just last month, in fact, an internal Evaluation Policy Working Group completed an in-depth assessment of evaluation activities and submitted its final report. The findings of the review are quite promising and several new initiatives are being implemented. For the full information of the Subcommittee, I have included as an appendix to my statement a brief summary of the findings and recommendations of the Evaluation Policy Working Group.

Additional Red Tape

Finally, Mr. Chairman, I would like to note the complaints of certain witnesses before the Subcommittee to the effect that there is excessive "red tape" involved in the administration of the LEAA grant program. While I pointed out in prior testimony that regrettable and unforeseen difficulties have arisen and caused delay to certain applicants in some instances. I also stated my belief - and supplied supporting documentation to the Subcommittee - that the program has been administered effectively and efficiently.

The proposed amendments authorizing additional LEAA direction and control over State and local activities, and the requirement of new regulations to implement these provisions, particularly as necessitated by section 15 of S. 3043, would certainly cause increased administrative burdens on all jurisdictions. Similar requirements and red tape would result from the increased reporting requirements mandated by section 17 of the bill. As an attachment to my statement, I have submitted diagrams of the block grant process as it now operates and as it would appear following the addition of the complex requirements of S. 3043.

The new requirements for LEAA's annual report could significantly increase the amount of administrative red tape involved in the program, and would consume many man-hours of time and effort which could more productively be devoted to assisting State and local criminal justice. The volume of material which would have to be included in the report would be massive.

Detailed explanations would have to be provided regarding LEAA procedures and numbers of State plans approved, disapproved, and changed. Data

on individual projects and fund expenditure would also have to be provided. The development of such information in detail each year would require extensive additional efforts by State and local, as well as LEAA personnel, to the extent that these persons would become merely grant administrators and form completers, rather than criminal justice planners.

The detailed annual financial analysis of each State comprehensive plan would be extremely impractical and burdensome. The plan of each State is usually at least the size of a major city's telephone book. The plan speaks in general terms of needs and priorities, with supporting statistical data, not in terms of dollars to be expended. Financial analysis is possible only after applications for funding have been acted on at the State level.

Because of the difference of S. 3043 from the Administration's proposal to reauthorize LEAA, and because of the significant objections I have noted, the Administration recommends against enactment of S. 3043.

Thank you, Mr. Chairman, I would now be pleased to respond to any questions you or the members of the Subcommittee might have.

APPENDIX I TO STATEMENT OF RICHARD VELDE

EXECUTIVE SUMMARY
OF
THE REPORT OF THE LEAA EVALUATION POLICY WORKING GROUP

February, 1976

U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

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I. OVERVIEW AND BACKGROUND OF THE REPORT

A. Purpose of the Report

The Report of the LEAA Evaluation Policy Working Group (EPWG) has two aims. It is designed to provide to the LEAA Administrator an assessment of the progress LEAA has made in evaluation. It also offers the Administrator a set of recommendations designed to assure that further progress can be made in an orderly and efficient way.

The report responds to a mandate from the Administrator to do these two things. At the request of Richard W. Velde, the LEAA Administrator, the Office of Planning and Management organized a two day Evaluation Policy Issues Conference in September, 1975. The conference was asked to assess progress in developing and implementing evaluation policy and program since the issuance of the report of the LEAA Evaluation Policy Task Force in March, 1974. The conference was also asked to identify issues and suggest ways in which those issues could be addressed.

The conference performed its tasks, and resulted in the establishment of another group, the Evaluation Policy Working Group, which was instructed to take the list of issues and the assessment made of progress which the conference produced, and, after consideration, produce a list of specific recommendations for action. The Evaluation Policy Working Group (EPWG), which met from mid-September to mid-November, has concluded its task and presented a series of specific action recommendations to the Administrator in January, 1976. The Administrator acted on the recommendations early in February, 1976.

B. Summary of Major Findings

The final report of the EPWG expressed a high degree of consensus on the following seven propositions:

1. LEAA has made substantial progress since March, 1974, developing and implementing a wide range of highly significant evaluation programs in pursuit of each of the three evaluation goals of the earlier task force: The Knowledge Goal, the Development Goal, and the Management Goal.
2. In order that further progress can be made, office roles and responsibilities in the evaluation area need to be clarified.

3. Given a need to evaluate selected discretionary programs evaluators need to be involved in program design when that process begins, as well as in design of the evaluation component of the programs to be evaluated.
 4. If evaluation results are to be used, everyone must understand that the question of uses of evaluation must be addressed when programs are in the design stage, and must be addressed by management, as it considers what it is that management wants to learn. Further, if evaluation results are to be used there must be some capability within LEAA to analyze the findings of evaluations and to interpret their meaning for program alteration, new program development, further research or evaluation work, and other kinds of management decision-making.
 5. Since LEAA has limited staff resources for evaluation itself, major efforts need to be made, through training and technical assistance, to assist the SPAs and RPUs to develop evaluation capability. While training is now a function of the Office of Operations Support (Training Division) where there are adequate funds to begin this task, technical assistance is neither adequately funded nor appropriately placed, where it now is, in the Office of Evaluation.
 6. Once the Administrator has acted on the EPWG recommendations, the action he has taken needs to be codified and developed into a policy statement for the agency to guide its staff.
 7. The Office of Planning and Management needs to monitor carefully the evaluation program which results from the Administrator's actions on these recommendations.
- C. Background: The Evaluation Policy Task Force Report and the Evaluation Policy Issues Conference
1. The Need for an 18-Month Assessment
The Evaluation Policy Task Force Report, completed in March, 1974, marks the beginning of LEAA's major evaluation effort. While some major evaluations preceded that report, most of the agency's evaluation work followed from that report.

In September, 1975, eighteen months after the report, the Administrator asked for an assessment of progress. That assessment initially involved a major conference held September 10-11, 1975. The specific objectives of that conference were:

- a. To review the current level of evaluation activity carried out by all LEAA offices;
- b. To assess the extent to which the recommendations and evaluation programs contained in the report of the LEAA Evaluation Policy Task Force in March, 1974 had been implemented;
- c. To assess the present roles and functions of the various LEAA organizational components in the area of LEAA evaluation policy development and implementation and in the management of LEAA evaluation programs;
- d. To identify any major evaluation policy issues which had developed since March, 1974 and to propose actions to be taken for the resolution of issues identified, if any.

At the September conference all major LEAA headquarter offices having a role in the evaluation area were represented as well as three regional offices.

2. The Issues Identified at the September Conference

As the participants at the September conference proceeded through the task of assessing the current state of evaluation activities within LEAA, it became evident that there were policy and implementation issues in the LEAA evaluation program which needed resolution.

The conference concluded by developing an inventory of major evaluation issues which need resolution so that the agency's evaluation program can continue to develop and become steadily more effective. The issues identified at the conference clustered around the following four broad evaluation topics:

- a. Management of the LEAA Evaluation Program: Discussion centered around the topic of the roles and responsibilities which the various LEAA offices should and must play in order to assure orderly and coordinated implementation of the LEAA evaluation program;
- b. Utilization of Evaluation Findings in Agency Decision-Making: Conference participants identified a need for a better organized, more systematic mechanism for ensuring that the findings of completed evaluations were made available to managers within LEAA in a form designed to aid decision making, and were also disseminated effectively to those outside LEAA.
- c. Evaluation Methodology: Methodological issues were also identified as an area needing attention. These were seen as related to criteria for the selection of programs and/or projects for evaluation and vehicles for ensuring that performance measurement and evaluability are built into selected LEAA programs.
- d. The Development of an SPA Monitoring/Evaluation Capacity Building Strategy for FY 76-77: The intergovernmental structure of the LEAA program requires a concerted effort by the Federal government to build the capability to monitor and evaluate criminal justice programs at the state and local levels. LEAA efforts have been limited in this area. Many of the recommendations proposed by the initial Task Force Report and designed for the purpose of building this evaluation capacity at the state and local levels had been implemented in only a limited fashion.

D. The Evaluation Policy Working Group: Mandate, Composition, Methods

In view of the substantial number and substantive importance of these issue areas, the Evaluation Policy Issues Conference recommended the creation of an Evaluation Policy Working Group to conduct a comprehensive review of the issues which had been developed and to prepare a report and detailed recommendations for their resolution.

1. Mandate

On September 17, 1975, the Deputy Administrator for Administration established the recommended Evaluation Policy Working Group (EPWG) with the specific mandate of building on the earlier work of the Evaluation Policy Task Force (March, 1974), making recommendations for the resolution of the evaluation issues identified at the September conference and preparing a final report to the Administrator containing proposals for specific next steps.

2. Membership

Membership on the EPWG was limited only to those LEAA offices with a major role in the implementation of the LEAA Evaluation Program and to representation from one LEAA Regional Office.

In addition, the EPWG was supported by Mr. Joseph Wholey, the Urban Institute, who was a technical adviser, and who was asked to comment during the working group meetings, develop written recommendations and observations to the working group, and comment on the draft report of the working group.

The working group met weekly following its constitution in mid-September. It completed its work and submitted a final report to the Administrator in January, 1976.

II. THE REPORT'S ASSESSMENT OF THE STATUS OF EVALUATION IN LEAA:
HOW FAR HAVE WE COME?

- A. Where We Began: Evaluation Policy in LEAA Through March, 1974
- B. Where We Are Now: Status of the LEAA Evaluation Programs
Today

II. THE REPORT'S ASSESSMENT OF THE STATUS OF EVALUATION IN LEAA: HOW FAR HAVE WE COME?

A. Where We Began: Evaluation Policy in LEAA Through March, 1974

I. Historical Background and Legislative Mandate

Although the legislative mandate for LEAA's evaluation effort is contained in the 1973 amendments to the agency's legislation (P.L. 93-83), and in the Juvenile Justice and Delinquency Prevention Act of 1974, LEAA had begun to evaluate selected projects itself much earlier, and had also strongly encouraged evaluation by State Planning Agencies beginning in 1971. In 1972 LEAA initiated a major evaluation of the eight impact cities. Thus, while there was no major mandate in the legislation prior to 1973, LEAA had earlier recognized the need for evaluation and had taken steps to build evaluation into selected programs.

The Crime Control Act of 1973 provided further impetus for evaluation in the agency. It required that comprehensive law enforcement and criminal justice plans provide for "such ... monitoring and evaluation procedures as may be necessary", and it also required that the research arm of the agency, the National Institute of Law Enforcement and Criminal Justice, should undertake "where possible, to evaluate the various programs and projects" for the purpose of determining "their impact and the extent to which they have met or failed to meet the purposes and policies" of the Crime Control Act. The results of evaluations are to be disseminated to State Planning Agencies and, upon request, to local governments.

A year later, the Congress added further evaluation responsibilities to LEAA when it passed the Juvenile Justice and Delinquency Prevention Act. The state plans required under this Act must provide for development of an "adequate evaluation capacity" within the State, and for an annual analysis and evaluation of program and project results. Further, the Act requires that programs funded under the Act are to continue unless the yearly evaluation of programs is unsatisfactory.

2. Evaluation Task Force and Its Policy Recommendations

Following the enactment of the new evaluation mandate in the Crime Control Act of 1973, LEAA established an evaluation task force whose task it was to develop recommendations for evaluation policy, programs, and responsibilities within LEAA and in the State Planning Agencies.

The Task Force was instructed to build upon previous LEAA evaluation efforts and respond directly to the new requirements for evaluation mandated by the Crime Control Act of 1973. The Task Force was authorized to develop a comprehensive evaluation program which would enable LEAA to identify valid, successful criminal justice programs and practices and would further the state of the art in evaluation of Federal social programs.

Members of the Evaluation Policy Task Force were appointed from all levels of LEAA, including the SPAs. This broad representation was designed both to enable input from all vital sources and to demonstrate LEAA's deep commitment to Federal-state partnership in the implementation of the LEAA program.

The Evaluation Policy Task Force completed its work and submitted a final report to the Administrator, as scheduled, on March 1, 1974. In general, the Task Force formulated three general evaluation goals for LEAA. These three goals were defined as follows:

- a. To develop information on the effectiveness of criminal justice programs and practices -- a knowledge goal,
- b. To have all LEAA program managers employ management practices which use evaluative information in the formulation and direction of their activities -- a management goal, and
- c. To encourage all agencies in the criminal justice system to develop and utilize such evaluation capabilities -- a development goal.

Once these three goals were chosen, programs were structured to achieve them. Funding mechanisms and model guidelines were drafted to implement them and the roles of each part of LEAA with respect to each program were analyzed. In summary, the three programs which were developed by the Task Force were designed to operate as follows:

1. The Knowledge Program. The Knowledge Program has a strong national focus in its operation and utility. Basically, it recognizes that certain types of information can best be produced through a nationally coordinated evaluation. Yet it is designed to capitalize on the action grant program by building the evaluation designs around the operating projects. The results of the program are expected to be of use to a national audience of criminal justice system planners and decision makers and to meet the Congressional mandate to identify what has been learned about reducing crime through the LEAA program.
2. The Management Program. The program for the Management Goal was designed to insure that evaluation becomes an integral part of the management process for each administrative level of LEAA. In particular, detailed guidelines were developed for SPAs to follow in developing their evaluation program and their annual comprehensive plan. However, similar requirements for performing and utilizing evaluation in the management of their activities were recommended for all LEAA offices as well. The Office of Planning and Management was to be responsible for coordinating and assessing the effectiveness of this program.
3. The Development Program. The Development Program aimed at building evaluation capabilities in LEAA and in the entire criminal justice system. The program was designed to incorporate and coordinate a variety of activities, including training, technical assistance, and supporting model evaluations at various levels of LEAA and in the criminal justice system. All of the activities of the Knowledge and Management programs are structured to be maximally useful to the criminal justice community.

In summary then, the Initial Evaluation Policy Task Force articulated evaluation policy goals for LEAA, designed programs for the attainment of those broad goals and assigned office roles and responsibilities in the further development of LEAA evaluation policy and in the implementation of the recommended evaluation programs.

other components of the criminal justice system. And on this point, we join in the remarks of the Deputy Attorney General.

To avoid confusion by the misleading statistics that have beclouded the issue from the inception of the LEAA program, we endorse the definitions of "court" and "courts of last resort" as defined in 3043. They are essentially identical to the definitions urged in our resolution.

We endorse the repeal of section 301(d) of the act which limits compensation of personnel by S. 3043 and one of the speakers will cover that a little more thoroughly.

On my part, I urge your favorable consideration of these amendments proposed in the American Bar Association resolution. We firmly believe that our resolution is a broad outline of amendments which will tend to remedy present deficiencies in the act as it applies to our State court systems.

On behalf of the American Bar Association and personally, I thank you for affording me this opportunity to appear in connection with the reauthorization of the Law Enforcement Assistance Act and I welcome any questions you might have now or later after the other speakers have spoken.

Senator KENNEDY. Judge Grimes?

Mr. GRIMES. Mr. Chairman and members of the committee, I think I can say that by and large we support S. 3043 with some reservations and suggestions that I'd like to make. I think that the provision to assure a fair and adequate portion of the block grant funds going to courts, as provided in the bill, is probably about as good as we can expect to get, and therefore, we support it.

We would like to have something more specific, but we recognize the realities of life. And with that, I'll pass on to the judicial planning committees, which are provided for in the bill, which I think are very essential because not only will this allow, but it will encourage the judiciary to do its own planning.

I think that the judiciary has held back. They haven't been very innovative and by particularly providing for these judicial planning agencies, it will encourage them to do their own planning. As far as the presumptive validity of the plans they submit are concerned, I think that's also very important, at least as a symbol regarding the separation of powers, because the judicial plan will relate solely to the judicial system. And it seems to me that when it's reviewed by a body which will be predominantly from the executive branch, that there should be some presumption of validity.

I join with Justice Spencer that I think that the entire court of the last resort, rather than the chief justice, should not only create these agencies, but also provide for the membership, which the bill does adequately provide for, as far as representation of the various levels of the court system.

There are many ways in which chief justices become chief justices and there are different lengths of terms that they serve. And I think in some States they turn over rather rapidly. And I think that having the whole thing in the control and the membership of these committees entirely in the control of one person who may change from time to time, would have a disrupting effect on the continuity of the planning.

Our resolution calls for a one-third representation on the State planning agencies—judicial representation on the State planning agencies—and the executive committee. And I join Justice Spencer in saying that that is important, that the membership be also on the executive committee.

S. 3043 does not meet this request. By specifying a representative chief justice and singling out a court administrator provides for only two. Now, the membership of these committees vary from something like probably 15 to 40 members. And if you have two judicial representatives on a State planning agency of 30, they're not likely to have much impact.

And we would still press our resolution that we have a percentage—that is, a one-third representation—and that there be no specification as to who should be on there. That is, the court administrators or anyone else ought not to be singled out, but membership on the committee should be left to the court of last resort.

Senator KENNEDY. I think we've had other testimony on this particular point and we know the problems.

Mr. GRIMES. Yes. I understand. I think that nothing had been mentioned about the fact that there's no provision in this bill to guarantee that there will be no inducement for a state to adopt any particular plan of court organization. And I think that's something which should be included.

It already has been mentioned about the 5-year extension.

Senator KENNEDY. Yes.

Mr. GRIMES. And I'd like to emphasize that I think that that is important. Comprehensive planning takes time. That is, if you're going to have innovative programs, they have to be with a view to the future. And it's not likely to encourage long-range innovative planning if the planners cannot be assured that the funds will be available to carry out the innovative plans for a period beyond 2 years.

And so for that reason, we strongly urge that the extension be for 5 years and also we don't think that the renewal fight ought to come in an election year. It ought to be in an off year, either one way or the other.

On the repeal of the provisions with regard to personnel, I'd just like to say a word or two about that. And this is particularly important from the standpoints of the courts.

I would agree 100 percent that none of these funds ought to be used to raise the salaries or wages of existing and current personnel in the States. I agree 100 percent with that. That's not what I understand the restriction provides for, though. I don't have the original language here with me, but I think it provides that no more than one-third will be spent on personnel.

Now, most of the innovative programs, if there are any, that are sought to be induced by this legislation, I think, cannot be accomplished by buying a lot of hardware. They are programs which require and depend upon personnel to carry them out. And this is no more important anywhere than it is in the court system.

I mean, we don't use helicopters and cruisers and guns and ammunition and those things and if we're going to have to confine ourselves to this sort of restriction, it doesn't seem to me that we can do

much to help the courts out. Now, I know that time is short and I will just pass the gavel, as they say, over to Judge Pennington for a few remarks.

Senator KENNEDY. Very good, sir.

Mr. PENNINGTON. Mr. Chairman, I would like to put myself at the mercy of the committee, if I may. I find myself as an Englishman addressing an Irish chairman on Saint Patrick's Day and find myself following two distinguished appellate judges, when I happen to be a trial judge, and they are hard to second guess.

And as one of my colleagues recently pointed out, he knew of nothing in the law that prevented appellate judges from being wrong in their decisions in deciding trial cases.

Be that as it may, we are delighted to be here and we appreciate this opportunity to address the committee on the subject of Senate bill 3043. I think that Administrator Velde has made an important point that needs to be recognized by each of us, and that is that LEAA was not intended, and never was intended, cannot be intended, could not possibly manage nor support the State courts.

Senator Hruska, who is known as the Federal father of the court system, you might say, because of his many years of assisting in the Federal and the State courts by use of Federal funds, has indicated that LEAA is unable to cope with the crime problem in this country. And, again, I must agree that it was never intended to handle this problem.

But I must say that I find myself much less in fear of the Federal Government interference in the State and local courts, as I fear the fact that in 1976, 200 years after establishment of the American court system, that the State courts have been unable to deal with the problems which face them today and which have faced them now for two centuries.

As a matter of fact, it is my opinion that the problem continues to grow almost directly proportional to the problem, which we would all agree, has grown in the criminal field. Now, the SPA, which has been referred to by Senator Hruska, unfortunately, has almost universally ignored the courts.

The Kennedy bill, S. 3043, in section 17, protects the courts by requiring that there will be adequate representation of the courts on these SPAs. And I believe this would go a long way in removing the political influence which is often imposed by the State executive on the State judiciary.

General Tyler, himself a former judge—and a distinguished one, I might add—has some problem with the representation made by the Special Study Team in the report which was funded by LEAA requiring a presumption of validity of the State judicial court plan.

He considers this, I note, as a special favor for the courts. Quite the contrary, I might say, because in most States there is no court plan, as such, and in the States submitting their so-called State plan, you will find that the courts have been left aside in many, many instances.

Now, General Tyler has also indicated that the State courts are hampered by inadequate staffing. I want to say to you that so is LEAA's court section hampered by inadequate staffing.

I testified last week in front of the Conyers committee in the House. I pointed out that I felt that Jim Swain, who is the head of the courts division of LEAA is a gifted person who does a fine job. But after all, his desk is so far down the line. His pecking order, as we say, is so low that I find that the things we were discussing a year ago with LEAA are still the same subject we're discussing today.

One year ago this month, the Special Study Team on LEAA Support to State Courts urged LEAA staff improvement as a vital first step in upgrading courts. LEAA, admittedly, cannot prevent the rise of crime alone, but unless LEAA assists the State courts in doing so, neither can the courts. And they have an appointed task in the criminal justice system which I feel has been the most often ignored.

The States, in most instances, have failed to provide the necessary leadership and this is the purpose of asking the LEAA Act to be amended. Now, perhaps one of the greatest gifts of S. 3043 is the definition of courts, because LEAA, in the past, has greatly benefited by the lack of a definition of the term courts, and in many of these statistics, which we have received over the years from LEAA showing the amount of money which has gone to the courts, you will find that this depends on where you are looking and on what statistics you intend to rely.

Because the Constitution of the United States and the constitutions of the respective States would make it very clear that the prosecution of crime is an executive function, not a judicial function. The defense of crime is an executive function, not a judicial function. But in most instances, you will find that in LEAA statistics, they have taken the cost of the prosecution and the defense of crime and grouped this under the definition of courts to indicate that a great deal more money has been given to the court system than, in fact, has been done.

So I feel that S. 3043 may serve a great purpose in this field. Mr. Velde indicates that this salary subsidy of 85 percent worries him. It worries me too, that the LEAA regional offices have allowed this.

In my State, not one judge gets a salary subsidy. However, every policeman in the State receives 15 percent of his salary as a subsidy from the Federal Government. And I might say this: That we have not yet developed a Federal police state in Kentucky, as indicated on television practically every night recently. But I frankly do not know of a single judge in America who is receiving 1 cent of salary subsidy from LEAA or any other Federal agency, with the exception of a special narcotics court which has been established in New York and this is to bring in some additional judges for an additional study and the Federal Government has subsidized a salary on a particular project.

The Special Study Team, to which I have previously alluded, over 1 year ago strongly recommended that the States establish offices of judicial planning. One year later, very few of these agencies are, in fact, in effect.

In my particular State, in order to meet the 10 to 1 match, my State has put up \$118,000 to match the \$88,000 of LEAA. I don't know what statistics LEAA uses, but my mathematics tells me that

that's not a 10 to 1 match. As a matter of fact, almost a year went by and we had spent our match money and we had never received one nickel of Federal money, although we had received a great deal of paper. It was not the right color, Senator, for today, nor any day when it come to expenditures.

We believe that LEAA's court section and in dealing with the courts in LEAA has been a stepchild. It remains a stepchild. And it will remain a stepchild unless the Congress takes some changes to upgrade the activities toward the court within that agency and we feel that that day is long past due.

Thank you very much.

Mr. GRIMES. Mr. Chairman, I'd just like to introduce Chief Judge T. John Lesinski of the Intermediate Court of Appeals of Michigan who is here as an interested spectator.

Senator KENNEDY. Very good. Judge, we welcome you here. I might ask Judge Pennington, is it your feeling that with the changes that have been either suggested by Judge Grimes or Judge Spencer, that S. 3043 would help upgrade the courts in an important and useful way?

Mr. PENNINGTON. I don't think there's any question about it, sir. I think the answer to that is definitely affirmative.

Senator KENNEDY. Would you agree with that, Judge Grimes?

Mr. GRIMES. Yes. I would, Senator.

Senator KENNEDY. And Judge Spencer?

Mr. SPENCER. Yes.

Senator KENNEDY. Senator Hruska?

Senator HRUSKA. You indicated that you were in the House of Delegates or is it in the Judicial Administration section?

Mr. SPENCER. No. I am the Appellate Judge Conference delegate in the House of Delegates of the American Bar Association. We have one delegate.

Senator HRUSKA. Within the American Bar Association, there is the Judicial Administration Division; is that right?

Mr. SPENCER. Yes. We are a part of the—

Senator HRUSKA. You are a part of that?

Mr. SPENCER. Administration Division. Yes. And I had just gone off of that executive committee. Justice Grimes is now on the executive committee of the division. I'm on the executive committee of the conference.

Senator HRUSKA. Well, the Criminal Justice Council—where does that council come from within the American Bar Association structure?

Mr. SPENCER. They are a section of the American Bar Association.

Senator HRUSKA. Composed of prosecutors as well as defense lawyers in criminal cases and things of that nature?

Mr. SPENCER. That is correct.

Senator HRUSKA. It's my understanding that the Criminal Justice Council voted very substantially against the resolution which you introduced; is that true?

Mr. SPENCER. Let me set the record straight on that, Senator. The chairman of their section said that he supported our resolution. He was overruled by, as I understand it, a small majority on his

council. And they took action as a council and they came in to talk against the resolution. But they were overwhelmingly defeated in the House.

Senator HRUSKA. In the House of Delegates?

Mr. SPENCER. Yes, overwhelmingly defeated. I would say that about—well, the result was much different than usually happens on matters of this kind.

Senator HRUSKA. And, of course, the House of Delegates is the broadest spectrum of lawyer, judges, prosecutors, and private counsel, and so on?

Mr. SPENCER. Yes.

Senator HRUSKA. It's very representative of the Bar—

Mr. SPENCER. Very representative. Actually, Senator, I expected to speak on this resolution. We started off with Griff Bell making the presentation. And then so many representatives of the Bar other than judges spoke that I suggested to Griffin Bell that he close and no more judges speak.

Senator HRUSKA. I have no further questions, Mr. Chairman.

Senator KENNEDY. I want to thank all of you very much for the comments and for the helpful suggestions, as well as your insight into some of these problems. I think it has been very constructive—the statements and comments from three distinguished jurists who are living with this problem every day and who have a very keen commitment to the court system, as well as, I find, a very keen understanding of what the thrust and intention and the purpose of the Law Enforcement Assistance Act is.

And I think your testimony has been very, very helpful.

Mr. SPENCER. We're very appreciative of the opportunity, Mr. Chairman. And as I suggested, I think we have here the weak link in the LEAA system.

Senator HRUSKA. Mr. Chairman, one question—the independence of the judiciary, the subject, has been discussed and the point has been made. If there is a repeal of the one-third limitation for personnel, presumably the judiciary would get a substantial portion, a much larger sum than it is getting now.

Conversely, many of the priorities that now exist and that are part of a comprehensive plan will have to do with less than what they are getting now. But the point is that there will be a fairly substantial part of that devoted to the State judiciary and its several levels of judicial structure.

Now, just how much is the independence of the judiciary compromised by independence upon a foreign body, namely, the House or the Senate of the Congress and its very complicated way of doing business, and which from time to time, suffers budgetary constraints.

Does that make you apprehensive at all?

Mr. GRIMES. Not at all.

Senator HRUSKA. If you go to your legislature or the Governor and plead for additional funds, I wonder if you can also come here and have as good results. What do you think?

Mr. PENNINGTON. I think you need to look to the Federalist Papers. And this is an answer that was answered 200 years ago, that we're in the same position we were before. When we come with one hand, we have to come to the legislative branch of the government because

the legislative branch of the government is, now, and will always be the place where the money for the courts is. The court is the only branch of the government which obviously can never have any funds of its own except those which are given to it under those restraints that the legislature feels are necessary.

And we feel that obviously this is within keeping of the Constitution of the United States and is a direct outflow of the Federalist Papers.

Senator HRUSKA. Well, in what respect is the judicial branch—whether it's a State or nation—in what respect are they different than the executive branch? The executive branch gets no money, except what the legislature gives it. And the same thing is true of the judiciary.

Now, in what way is your independence impaired? That's the question that's going to be asked again and again. Why do you feel that you are impaired in your independence, if you are dependent upon the legislature for funds? All of us are. All of the executive agencies of government are.

And yet we don't consider that the executive department has its independence threatened. Judge Spencer?

Mr. SPENCER. Senator, we haven't, as you know, had quite the problem in Nebraska that has been prevalent in most of the other jurisdictions. We've been able to work with our State planning agency. But we are the exception and I would like to have Justice Grimes answer your question.

Mr. GRIMES. I think your question originally, Senator, was whether we thought that our independence would be jeopardized by receiving Federal funds. And I think that because of the remarks you've made here this morning, that there doesn't seem to be any question in my mind that the bill is going to be amended to make sure that the word "direction" or any word that might have the same connotation is not going to appear in the bill.

So the legislation itself would prohibit any use of the funds for directing the agencies that receive them. In the second place, as far as the block grant money is concerned, that comes from the State agencies. And if these State planning agencies—judicial planning committees, rather—are set up and the grants are made through those committees, then it doesn't seem to me that we have any fear of Federal domination.

Senator HRUSKA. Well, what about the impingement upon your independence as a judiciary, in view of the fact you have to go to the legislature for your funds?

Mr. SPENCER. We do that now, Senator. We work up a budget and we have to appear before the Budget Committee to explain every item in our budget. But the point is, we work up the budget. With the State planning agencies, the tables are reversed. In many States, the judiciary is not represented on those State planning agencies and when they do present a program, it is worked over by folks who have no knowledge of the real functioning of the judiciary, except as it may pertain to their own particular area, be it law enforcement or some other area. And that has been our problem and that's one of the things we hope to correct by getting judicial representation on the State planning agencies and by getting the Judicial Planning

Commission who can work up a comprehensive plan, submit it to the State planning agencies, and then let them consider integrating it into the entire concept.

But in that way the judiciary is getting consideration, and are not compromising themselves in any way insofar as the separation of powers is concerned. Actually, they are carrying it out.

Senator HRUSKA. Does the State planning agency in your State have any judges on it?

Mr. SPENCER. Yes. Our court administrator is on and I think there are two judges. In Nebraska we don't have this problem for the simple reason, I think, that the attorney general has been working on it and I think the various groups have been represented. And we're having no problem with our State planning agency. But we are the exception.

Senator HRUSKA. By law they are required to have it. It says, "the State planning agency shall, in its respective jurisdiction, be representative of the law enforcement and criminal justice agencies."

Mr. SPENCER. Yes, but that's—

Senator HRUSKA. So if the judges are not represented, maybe they'd better speak up.

Mr. SPENCER. That's very fine rhetoric, but in actual practice it doesn't work quite the way it sounds. For instance, in a State with a Governor who may not have too high a regard for the judiciary, but particularly in a State where they may not have a nonpolitical judiciary, if he appoints to that commission a judge who may be one of his political henchmen who has no feeling for the concerns of the judiciary, the judiciary has no representation on that State planning agency. But just looking at the rhetoric, again, it would appear that they do.

And that is the reason that it is absolutely essential that the court of last resort have input into appointing the judicial representatives on the State planning agencies.

Senator HRUSKA. I thank you.

Senator KENNEDY. Thank you very much. Mr. Walker, we welcome you. We will put your entire statement in the record. We have about 5 minutes, if that's all right.

Mr. WALKER. We understand the problems of time, Mr. Chairman. [The above referred to statement follows:]

STATEMENT OF DAVID B. WALKER, ASSISTANT DIRECTOR AND
CARL W. STENBERG, SENIOR ANALYST

Mr. Chairman, and Members of the Subcommittee, I am David Walker, Assistant Director for Governmental Structures and Functions of the Advisory Commission on Intergovernmental Relations. The ACIR, I believe you know, is a permanent national bipartisan body established by Congress in 1959 to monitor the operation of the American federal system and to recommend improvements. Of the 26 Commission members, nine represent the federal executive and legislative branches, 14 represent state and local governments, and three represent the general public.

The Commission very much appreciates the opportunity to appear before you today to present our views on S. 3043, the proposed "Law Enforcement Improvement Act of 1976." I am joined by Carl Stenberg, a Senior Analyst on the Commission's staff who was Project Manager of ACIR's assessment of block grant experience under the Omnibus Crime Control and Safe Streets Act. We have prepared a summary of the results of our eight-month research effort and the recommendations adopted last November for amending the Act and improv-

ing its implementation, which is attached to our statement. At this point, however, it should be noted that our reading of the block grant record is based on a substantial amount of factual and attitudinal information, including: national surveys of all State Planning Agencies (SPAs), Regional Planning Units (RPU's), and cities and counties over 10,000 population; extensive use of LEAA's Grant Management Information System and the States' Planning Grant Applications; and first-hand observations of the operation of the program in ten states.

In our judgment, Mr. Chairman, S. 3043 addresses the three most critical issues surrounding renewal of the Crime Control Act: the role of the courts vis-a-vis state executive branch criminal justice planning agencies; the amount of funds and planning responsibility provided to major cities and urban counties; and the proper stewardship of the block grant by the Law Enforcement Assistance Administration (LEAA). In each of these areas, we find S. 3043 to be generally consistent with the basic thrust of the ACIR's recent recommendations. In the time remaining, we would like to briefly point out these similarities, to identify specific areas of disagreement, and to offer some suggestions for amendment of S. 3043 which might enhance prospects for achieving its purposes.

THE COURTS

With respect to the courts, unless our system of justice can guarantee the swift, sure, and fair disposition of cases, the public will have little respect for the law, and potential offenders will not be deterred from criminal activity. Court congestion and backlog, among other factors, have prevented realization of these objectives. In view of increases in civil and criminal litigation, more resources need to be made available to state and local courts.

The Commission agrees that the unique position of the judiciary warrants special attention in implementation of the Crime Control Act. The integrity, impartiality, and independence of the judicial branch should not be unduly compromised, and the separation of powers principle should not be violated. Yet, we must keep in mind that the Act was designed, in part, to foster a criminal justice system. Provisions requiring comprehensive planning, balanced funding, and representation of diverse interests in SPA and regional supervisory board deliberations reflect this ambitious "system building" intent. We also must not forget that federal funds account for only a small fraction of total criminal justice expenditures at the state and local levels, and that the amount allocated to the courts varies from state-to-state. Approximately 13 percent of the Part C action funds were used for court purposes from FY 1969 to FY 1975, compared to 19 percent of state and local outlays from their own sources. Although estimates range widely, we have found no hard data on the allocation of these federal dollars between the judiciary, prosecution and defense, and other functions subsumed within this broad "court" category.

We believe that the approach taken in S. 3043 is a feasible way to ensure the independence of the judiciary without undermining the comprehensive criminal justice planning efforts of the SPA. Creation of a committee at the State level to formulate plans for court needs, set priorities, and make recommendations to the SPA for project funding was called for by ACIR. However in light of the structural diversity that characterizes the nation's court system, we favored a more permissive approach in which the SPA would decide upon the need for and functions of such a committee. Amending the Crime Control Act to establish a statutory framework for Judicial Planning Committees (JPCs) does not appear contrary to the spirit of the block grant, provided that a new separate category of financial assistance for courts is not created, Part C formula allocations are not earmarked, and the planning and funding linkages between the JPC and the SPA are not blurred or broken. If the Subcommittee believes that this matter should not be left to the discretion of individual SPAs, consideration should be given to amending the Act to authorize the legislature, rather than the chief justice of the court of last resort in each state, to establish the JPC. This has been done in California. State statutory status would give the Committee stability and credibility, as well as probably improve relationships with the legislature in the appropriations process.

S. 3043 contains rather detailed language concerning the contents of a JPC's plan and procedures for SPA-LEAA consideration of funding requests. We are not prepared to comment on the implications of these technical provisions. However, they raise certain questions that merit further consideration by the Subcommittee:

- (1) Should the JPC plan be considered presumptively valid?
- (2) Should the JPC be entitled to an appeal to LEAA if the SPA finds that the Committee's plan is not acceptable?
- (3) Is detailed statutory specification of the contents of the JPC plan really necessary?
- (4) How would LEAA guidelines implement the JPC planning process?
- (5) What effects will the earmarking of one-third of the Administrator's discretionary fund have on the amount of assistance available for other national priority programs?
- (6) Do state and local courts possess the requisite staff to prepare plans which comply with the provisions of S. 3043?

MAJOR CITIES AND URBAN COUNTIES

Turning to the concerns of major cities and urban counties, since the inception of the Safe Streets program there has been heated debate over whether SPAs are allocating these jurisdictions sufficient Part B monies to plan for their needs and adequate Part C funds in light of their crime rates. The Commission's research revealed that several large cities individually receive less than a "fair share" of Federal funds. In general, however, analysis of the flow of block grant assistance over the years in terms of city-county criminal justice systems across the country reveals that local units over 100,000 have received an amount of Part C dollars in excess of their share of total state population and slightly below their share of reported state crime rates. Although gaps still remain in some states' effort, the present statutory provisions calling upon LEAA and the SPAs to give adequate attention to the needs of high crime areas seem to have had a positive effect.

Despite these findings, in recent years local governments have become more and more concerned about the procedural bottlenecks and high administrative costs sometimes associated with obtaining federal anticrime dollars. Their spokesmen assert that at the local level planning often takes place in a vacuum because the amount of funds available for new projects is difficult to determine and that too much time must be spent developing and defending individual applications.

Section 9(4) of S. 3043 responds to this concern. Under the "mini block grant" arrangement, as practiced in Ohio, for example, larger local governments designated by the SPA would prepare plans for their crime reduction and criminal justice system improvement needs during the next fiscal year. Following approval of such a local plan, a "mini block grant" award would be made by the SPA for its implementation. This approach was recommended by the ACIR as a means of freeing SPA supervisory board and staff time for planning and policy matters instead of grant management. It also could reduce administrative costs, expedite project implementation, and give local units a greater incentive to plan for both federal and non-federal criminal justice resources.

S. 3043 would improve the relevant provisions of the Crime Control Act in two major respects. First, the statute's ambiguity would be clarified by providing that once a local plan has been submitted and approved by the SPA no further state level review of and action on individual applications would be necessary. Second, the eligibility of local jurisdictions would be determined by the SPA rather than confined to a fixed statutory 250,000 population floor, enhancing state flexibility and making it possible for smaller units or combinations thereof having serious crime problems to participate. In this connection, the Subcommittee might wish to consider raising the four percent floor on eligibility in less densely populated states to a level which would ensure that only major local units would be included. Alternatively, this provision could be dropped and SPAs authorized to identify jurisdictions to be included in the "mini block grant" procedure in light of their crime incidence, financial and administrative responsibilities for law enforcement and criminal justice services, and other factors as determined by each state.

LEAA STEWARDSHIP

Under a block grant approach, the federal administrative agency is in a delicate position. It must ensure that recipients have substantial flexibility and discretion in identifying needs, setting priorities, and applying resources to them. At the same time, it must provide Congress, and itself, with sufficient

assurances that national objectives are being met. LEAA's record on this front has been mixed.

Some state and local officials have complained that LEAA has not developed adequate performance standards for evaluating the quality of state plans and SPA implementation efforts. They contend that LEAA's planning guidelines are oriented more to financial management and control than planning. LEAA has been mainly interested in ensuring that the states incorporate all of the components of a comprehensive plan specified in the Act, that action funds are put into appropriate functional categories, and that various fiscal and procedural requirements are met. While these are important, the Commission's review of the first seven years of the program indicated that LEAA needs to pay greater attention to more substantive matters. Lacking qualitative standards, effective evaluation of SPA performance is difficult, and the bases for plan approval tend to be too subjective.

The development of national standards should be accompanied by improvements in LEAA's capacity to monitor, evaluate, and audit state performance. Special conditions attached to annual plans by Regional Offices have been used frequently, but enforcement of state compliance has been spotty. Only a handful of state comprehensive plans have been disapproved since 1969. One result of inadequate federal administrative oversight has been the pressures for functional and jurisdictional categorization and earmarking. In the view of some observers, then, what has been lacking is not a statutory basis for action but rather an LEAA commitment to enforce the letter as well as the spirit of the law.

We are aware of and encouraged by LEAA's recent oversight efforts, especially in the areas of monitoring and evaluation. However, the amount of time, personnel, and funds devoted to these activities needs to be increased. The provisions of S. 3043 would help accelerate the pace of and increase the priority accorded to these efforts. In particular, a closer reporting relationship would be established between LEAA and the Congress. Organizational responsibility for monitoring, evaluating, and auditing would be better focused. Each year LEAA would provide a detailed report to the Congress on the status of state comprehensive planning, state-regional-local implementation efforts, and LEAA central and regional office operations. The impact of the Crime Control Act on the reduction and prevention of crime and delinquency and on the improvement of the criminal justice system would be assessed. This information would provide a basis for more effective, and hopefully more frequent, Congressional oversight.

The Commission is concerned, however, about the addition of the phrases "at the direction and guidance of the Administration"—meaning LEAA—to Section 203(b) and "constructive leadership and direction" to the Declaration and Purpose and Section 201. We are unsure as to the intent of this language and question its necessity, but at first glance it appears antithetical to the partnership idea underlying the block grant. Under the present Act, as well as the provisions of S. 3043, the authority of LEAA to oversee SPA operations and to specifically ascertain whether the SPAs address the needs of high crime rate areas and other Congressional priorities is wholly adequate. Despite the wide latitude accorded recipients under the block grant approach, the Crime Control Act is quite specific as to both the required substance of state plans and action programs and the procedures by which decisions should be made on these matters. In short, LEAA already has the authority to ensure SPA compliance with these provisions, and this new phrase adds potential confusion, if not conflict, to the program's operation.

Another concern we have is with the paperwork and personnel implementations of Section 19 of S. 3043. We would urge the Subcommittee to review the provisions concerning the annual report to the Congress on LEAA operations to ensure that the items called for are absolutely essential for effective oversight. This would help avoid burdening the states with excessive requests for data of limited usefulness. It would also reduce the need for major increases in LEAA personnel.

OTHER PROVISIONS

Although our testimony this morning has focused on three major areas of concern, in conclusion, Mr. Chairman, we would call your attention to two other important matters. First, we fully support the provisions of S. 3043 which would repeal the ceiling on grants for personnel compensation contained in Section 301(d) of the Crime Control Act. Second, we would urge the Subcommittee to consider two further changes in the present law:

(1) In lieu of an annual comprehensive plan, require in Sections 203(b) and 303(a) that SPAs prepare five year plans and submit annual statements on implementation progress and any necessary revisions to LEAA for approval. This would produce a more realistic approach to planning in view of limitations on funds and staff available for this purpose.

(2) Provide in Section 203(a) that nothing in the Act shall be construed as precluding the involvement of state legislatures in this program in the normal conduct of their duties. This would facilitate the meshing of Crime Control funds with other state criminal justice expenditures and would enhance oversight.

We will be pleased to respond to any questions concerning these and other suggestions made in the course of our testimony and will be available to assist Subcommittee staff on request. Thank you for the opportunity to appear before you today.

THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT: FUTURE DIRECTIONS

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 was a bold experiment in intergovernmental relations. Like many of the initiatives taken on the domestic front during the Great Society years, the Act embodied an ambitious attempt to tackle a deep-rooted problem of our society.

The launching of a major comprehensive Federal aid program in response to mounting public concern about crime and civil disorders generated high expectations regarding accomplishments resulting from the infusion of Federal funds. The use of a new instrument to dispense such assistance, the block grant, raised hopes that many of the administrative and policy problems associated with categorical grants could be avoided. In this atmosphere, certain fundamental features of intergovernmental relationships and the State-local criminal justice system were de-emphasized or overlooked at the time of passage and during the early implementation period.

The Act underscored the belief that money could make a difference in the fight against crime, largely by improving the capacity of law enforcement and criminal justice agencies to apprehend and process offenders. At the same time, it was recognized by some observers that the most significant influences on criminal behavior, including the family structure, income, educational process, place of residence, and societal attitudes, could not be significantly affected by the criminal justice system.

The Act was a major element of the "War on Crime" declared by the Johnson Administration and the "law and order" campaign of the Nixon Administration. Politicization of the crime issue by both the executive and legislative branches contributed to an ambitious and somewhat ambiguous Federal role. While the Act declared crime control to be a State and local responsibility, national attention was focused on the Safe Streets Act and the Law Enforcement Assistance Administration as spearheading this effort. Yet, the appropriations level remained at less than five percent of State and local direct expenditures for criminal justice purposes.

The Act stated that a major purpose of Federal financial assistance was to reduce crime by strengthening and upgrading the capacity of law enforcement and criminal justice agencies at the State and local levels. However, it also specified the use of funds for research, development, training, and other purposes not directly related to the day-to-day operations of these agencies.

The Act called upon representatives of State and local governments, police departments, judges, prosecutors, corrections and juvenile delinquency officials, and the general public to cooperate in comprehensive planning, resource allocation, program coordination, and other aspects of Safe Streets implementation. Yet, the fragmented nature of the criminal justice system had been well ingrained and, in many places, conflict between the State government and larger cities and counties has been long-standing. Moreover, prior to 1968 there had been little comprehensive planning in the criminal justice area and few professionals were skilled in this art.

The Act relied upon the States to assume major responsibilities under the block grant arrangement as planners, coordinators, innovators, decision-makers, and administrators. On the other hand, spokesmen for the Johnson Administration and many Congressmen were skeptical about the States' willingness and capacity to effectively perform these roles, a concern that has been voiced repeatedly throughout the history of the program.

The Act attempted to strike a delicate balance between the achievement of national crime reduction and criminal justice system improvement objectives with the enhancement of recipient discretion and flexibility. Yet, Congress initially attached several statutory "strings" to the use of funds, including variable matching, Federal plan approval, and a personnel compensation ceiling, a practice that has grown increasingly popular over the years. Furthermore, Congress reserved 15 percent of the annual appropriations for "action" purposes for a discretionary fund to be used by LEAA's Administrator much like a categorical grant.

In light of the foregoing, it is not surprising that sharply contrasting views exist with respect to the basic purpose of the Safe Streets Act, the nature of the block grant instrument, the States' planning and administrative experience, the appropriate LEAA role vis-a-vis SPAs, and the statutory changes necessary to better align expectations with reality. To help clarify and resolve these issues, to discern lessons that might be useful in future considerations of new block grant proposals and to help in assessing other existing programs that rely upon this approach, the Commission conducted an evaluation of the Safe Streets block grant record. The major results of this research effort are summarized in the following findings and conclusions.

Major Findings and Conclusions

After seven years, the Safe Streets program appears to be neither as bad as its critics contend, nor as good as its supporters state. While a mixed record has been registered on a State-to-State basis, on the whole, the results are positive. This is not to say, however, that changes are unnecessary. In brief, the ledger reads as follows:

On the positive side: Elected chief executive and legislative officials, criminal justice professionals, and the general public have gained greater appreciation of the complexity of the crime problem and of the needs of the different components of the criminal justice system.

During the early implementation of the Safe Streets Act, law enforcement-related activities commanded the bulk of the attention and money. As the program matured, a more comprehensive and insightful orientation emerged. It is now generally understood that crime is a complex societal problem which cannot be solved only by investing substantial amounts of funds in improving the processing of offenders. It is also recognized that the efficiency with which offenders are apprehended and processed and the effectiveness with which they are rehabilitated are vital to enhancing respect for the law and possibly deterring criminal behavior. Much of this "consciousness-raising" was the result of the intergovernmental and multi-functional framework established by the block grant and is a necessary precondition to building an effective criminal justice system.

A process has been established for coordination of efforts to reduce crime and improve the administration of justice.

The Safe Streets Act has provided an incentive for elected officials, criminal justice professionals, and the general public to work together in attempting to reduce crime. Representation of these interests on State Planning Agency (SPA) and Regional Planning Unit (RPU) supervisory boards has been the chief vehicle for achieving greater cooperation in the day-to-day operations of criminal justice agencies and encouraging more joint undertakings across functional and jurisdictional lines.

At the state level, for example, 41 percent of the SPA supervisory board members represent local government. Of these, 33 percent are elected law enforcement officials and 30 percent are elected chief executives or legislators. Thirty-five percent of the membership is accounted for by State spokesmen, while 24 percent represent the general public. This varied representation pattern has helped make activities supported with Safe Streets dollars more responsive to community needs and priorities. In addition, these programs have been more realistic in light of state and local fiscal capacities, and more closely linked with non-Federally funded crime reduction activities than otherwise might have been the case. While the goal of a well-integrated and smoothly-functioning criminal justice system has yet to be realized, a solid foundation has been established.

Safe Streets funds have supported many law enforcement and criminal justice activities that recipients otherwise would have been unable or unwilling to undertake.

Although early critics of the program claimed that too much money was spent on routine purposes, particularly in the law enforcement area, the available evidence now indicates that most Safe Streets dollars have been used for new programs that would not have been launched without Federal aid. For example, replies from 44 SPAs indicated that nine percent of the activities supported by Safe Streets funds over the years were considered to be innovative in the sense that they were demonstrations of new approaches that had never been attempted, and another 21 percent were classified as innovations that had been tried elsewhere but not in their State. Twenty-nine percent were viewed as generally accepted activities that had already been implemented widely in other parts of the country, but not in the responding State. Regardless of the degree of innovation involved, however, the program has established a mechanism for diffusing ideas and information about approaches to crime reduction and system improvement and has provided resources to help states and localities to carry them out.

Another indicator is the policy of several SPAs to prohibit the use of Safe Streets funds for equipment, construction, and other routine activities. Other States have attempted to maximize the reform potential of Federal assistance by setting certain eligibility standards for applicants, such as requiring police departments to meet the SPA's minimum standards for police services. Still others have given priority to multijurisdictional efforts, particularly in the areas of law enforcement communications, training, and construction.

A generally balanced pattern has evolved in the distribution of Safe Streets funds to jurisdictions having serious crime problems as well as among the functional components of the criminal justice system.

A persistent complaint since the program's inception has been that not enough money goes to jurisdictions with the greatest needs and that too much goes to police departments. The Commission's 1970 report found that these charges were largely valid at that time. Since then, however, a more balanced funding pattern has emerged. An analysis of LEAA's Grant Management Information System data reveals that since 1969 the 10 most heavily populated states have received over half of the Part C allocations, compared with a less than three percent share for the 10 least populous states. Collectively, large cities and counties (over 100,000 population) experiencing more serious crime problems have received a proportion of Safe Streets action funds in excess of their percentage of population and slightly below their percentage of crime.

With respect to the functional distribution, although there are wide interstate differences, overall the police proportion has declined and stabilized from two-thirds in Fiscal Year 1969 to approximately two-fifths by Fiscal Year 1975. Funding for corrections and courts also appears to have leveled off, with the former now accounting for about 23 percent of the funds and the latter 19 percent. By way of comparison, of the total State-local direct outlays for criminal justice purposes in Fiscal Year 1973, 58 percent went for police, 23 percent for corrections, and 19 percent for courts.

State and local governments have assumed the costs of a substantial number of Safe Streets-initiated activities.

A key barometer of the impact and importance of Safe Streets supported activities is the extent to which they have been "institutionalized" and their costs assumed by state agencies and local governments. It appears that once Federal funding ends, a rather high percentage of programs or projects continue to operate with state or local revenues. Although responses to ACIR's questionnaires varied widely from jurisdiction to jurisdiction, the mean estimate by SPAs for the percentage of Safe Streets supported activities assumed by State and local governments was 64 percent. City and county estimates were even higher, with 83 percent of the former's and 78 percent of the latter's projects estimated as having been assumed.

Many elected chief executives and legislators as well as criminal justice officials believe that the Federal Government's role in providing financial assistance through the block grant is appropriate and necessary, and that the availability of Safe Streets dollars, to some degree, has helped curb crime.

Despite rising crime rates, many state and local officials believe that the Safe Streets program has had a positive impact. In part, this can be attributed to the amount of discretion and flexibility inherent in the block grant, which has

helped make Federal funds more responsive to recipient needs and priorities. In some jurisdictions, Safe Streets has been a source of "seed money" for crime reduction activities that they otherwise would not have undertaken. In others, particularly rural states and smaller localities, block grant support has been used to upgrade the operations of police departments, the courts, and corrections agencies.

These officials also feel that actual crime rates would have been somewhat higher without the program. Fifty-four percent of the SPAs reported that Safe Streets funds had achieved great or moderate success in reducing or slowing the growth in the rate of crime, while approximately half of 774 cities and 424 counties surveyed indicated that their crime rates would have been substantially or moderately greater without Federal aid.

On the negative side: Despite growing recognition that crime needs to be dealt with by a functionally and jurisdictionally integrated criminal justice system, the Safe Streets program has been unable to develop strong ties among its component parts.

The impact of the Safe Streets Act on developing a genuine criminal justice system has been limited, due largely to the historically fragmented relationships between the police, judicial, and correctional functions, traditions of state-local conflict, and the relatively limited amounts of Federal funds involved. Replies from three-fourths of the SPAs surveyed, for instance, indicated that since 1969 the various functional components had only begun to view themselves and operate in a "somewhat" interdependent fashion. While two-thirds of the RPU respondents saw some signs of growing functional interdependence, most felt that little actual progress had occurred.

Elected and criminal justice officials appear to be willing to meet together, discuss common problems, identify ways of addressing them, and coordinate their activities at the State and regional levels. Yet, when the issue of "who gets how much?" is raised, the Safe Streets alliance often breaks down. Those who are best organized and most skilled in the art of grantsmanship have tended to prevail at the state level, while others have appealed to Congress for help. Congress has responded by categorizing the Act and earmarking funds in three major areas;

In 1971 Part B was added to the Act, creating a new source of aid specifically earmarked for correctional purposes. Half of these monies are distributed as block grants, while the remainder are discretionary funds. In order to receive assistance under this part, states have to maintain their level of correctional funding in Part C grants.

Also in 1971, big city spokesmen succeeded in getting two other amendments to the Act. Local units of general government, or combinations of such units with a population of 250,000 or more, were deemed eligible to receive action funds to establish local criminal justice coordinating councils. Language was added to the planning grant provisions assuring that major cities and counties within a state would receive funds to develop comprehensive plans and to coordinate action programs at the local level. Furthermore, language was added to the effect that states had to indicate in their plans that adequate assistance was being provided to areas of "high crime incidence and high law enforcement activity."

In 1974, a new statute, the Juvenile Justice and Delinquency Prevention Act, required that action funding for juvenile delinquency programs be maintained at the Fiscal Year 1972 level in order to receive financial assistance under the Safe Streets Act.

These steps were taken by Congress to increase accountability and achieve greater certainty that grantees would use monies in specific ways. Although as yet there have not been many major adverse effects on state administration, the amendments have converted Safe Streets into a "hybrid" block grant and have raised questions about the extent of discretion actually accorded to states and localities in tailoring Federal assistance to their own needs and priorities.

Only a handful of SPAs have developed close working relationships with the governor and legislature in Safe Streets planning, policy formulation, budget-making, and program implementation, or have become an integral part of the state-local criminal justice system.

The Safe Streets Act is generally perceived as a "governor's program," since the State's chief executive sets up the SPA by executive order (35 states), appoints all or most of the members of the supervisory board (and in six states serves as chairman), directs other state agencies to cooperate with the SPA, and often designates regional planning units. Most SPAs report that the governor displays an interest in Safe Streets but does not play an active role in the

program. Only nine governors, for example, review the annual comprehensive criminal justice plan and SPA priorities before submission to LEAA. Sixteen SPAs surveyed characterized their supervisory board's relationship with the governor as very independent, while 24 indicated that it involved mainly occasional communication and consultation. Eleven SPAs reported having regular communication and consultation with the governor. Typically, the governor's influence is exercised indirectly through his selection of supervisory board members and appointment of the SPA executive director.

The legislative role in the program is more removed. Although the legislature appropriates matching and "buy-in" funds, makes decisions about assuming the costs of projects, and in 20 states sets up the SPA, its awareness of and substantive participation in Safe Streets planning and police matters has been quite limited. This lack of involvement makes it difficult to mesh Safe Streets funds with other state criminal justice outlays, and to exercise effective legislative oversight.

SPAs have devoted the vast majority of their efforts to distributing Safe Streets funds and complying with LEAA procedural requirements.

One effect of limited gubernatorial and legislative participation in the program has been the restriction of SPAs to Safe Streets-related activities, even though the block grant instrument was and is designed to address criminal justice in a system-wide context. Generally, SPAs have not been authorized to prepare comprehensive plans responsive to the overall needs and priorities of the entire criminal justice system, to collect relevant data, or to scrutinize appropriations requests. Thirty-three SPAs surveyed indicated that they were not involved in planning and budgeting for State criminal justice activities other than those supported by Safe Streets funds, while 14 reviewed and commented on the budgets of these agencies. Nineteen SPAs provided planning assistance to State criminal justice agencies and 11 performed evaluations of certain State crime reduction programs.

As a result of these limitations, the quality of SPA plans varies widely, as does the extent of implementation. Lacking a genuine frame of reference, Safe Streets planning has been largely directed to the allocation of Federal dollars to particular projects. Because the planning and funding processes tend to be closely linked, many local officials complain that the program has become too immersed in red tape, and SPA officials often contend that too much staff time is devoted to grant administration. In their view, the inadequacy of Part B funds further impedes planning at the State, regional, and local levels.

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

Two common complaints of state and some local officials are that LEAA has not developed adequate performance standards for evaluating the quality of state plans and implementation efforts, and that it has been spotty in enforcing special conditions attached to the State plan and other requirements. In addition, many SPAs claim that LEAA planning guidelines are oriented more to financial management and control than planning. Until recently, they assert, LEAA has been primarily interested in ensuring that all comprehensive plan components specified in the Act are incorporated, that action funds are put into appropriate functional categories, and that various fiscal and procedural requirements are met. While these are important considerations, LEAA has been less concerned with developing operational criteria for making qualitative determinations about plans and implementation strategies. Lacking such standards, effective evaluation of SPA performance is difficult.

Only 11 SPAs indicated that LEAA's application and enforcement of guidelines were very helpful in improving their performance. At least one-fourth of the SPAs reported five of the eight LEAA mandated sections for the comprehensive plan to be of little or no use.

LEAA's relationship with the SPAs has changed over the years largely in accordance with the program priorities of different Administrators and their views on the amount of Federal level supervision and guidance necessary to ensure achievement of the Act's objectives. The relationship also has been affected by Congressional oversight activities. In general, SPAs would like to see more positive leadership exerted by LEAA in setting national standards, assessing state performance, and communicating the results of successful programs.

Excessive turnover in the top management level of LEAA and the SPAs has resulted in policy inconsistencies, professional staff instability, and confusion as to program goals.

Turnover of top management has been a fact of life in the Safe Streets program. There have been four Attorneys General and five LEAA Administrators in seven years, and with each new Administrator came an internal reorganization of LEAA. The agency was without a permanent Administrator for periods which totaled over one year out of LEAA's seven year life. The SPAs also have experienced high turnover. New directors were appointed in 26 states from October 1974 through December 1975. The median number of directors SPAs have had since 1969 is three, with a range of one to 15. Assuming that the attrition rates at the Federal and state levels will continue to be high, the need for standards dealing with plan comprehensiveness, funding balance, monitoring and evaluation, and other key aspects of block grant administration seem critical. Otherwise, the problems of inconsistency and uncertainty will persist.

In summary, the block grant approach taken in the Safe Streets Act has helped reduce crime and improve the administration of justice in three basic ways: stimulation of new activity; coordination of the functional components of the criminal justice system; and support for upgrading the operations of law enforcement and criminal justice agencies. Much has been accomplished after seven years. Yet, in the Commission's judgment, much more can be done to strike a better balance between achieving national crime reduction objectives and maximizing the flexibility and discretion of state and local governments. The following recommendations are intended to facilitate achievement of these objectives.

Recommendations

The Commission finds that crime reduction and the administration of justice have been and continue to be mainly State and local responsibilities. Yet, it is appropriate for the Federal government to provide financial assistance to initiate innovative approaches to strengthening and improving State and local law enforcement and criminal justice capabilities and disseminate the results of these efforts; to help support the crime reduction operations of State and local agencies; and to facilitate coordination and cooperation between the police, prosecutorial, courts, and correctional components of the criminal justice system. The Commission concludes that the block grant approach contained in Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, generally has been effective in assuring that the national interest in crime prevention and control is being met while maximizing State and local flexibility in addressing their crime problems. However, achievement of these objectives has been hindered by statutory and administrative categorization and by Federal and State implementation constraints.

RECOMMENDATION 1: DECATEGORIZATION

The Commission recommends that:

(a) *Congress refrain from establishing additional categories of planning and action grant assistance to particular functional components of the criminal justice system, repeal the Juvenile Justice and Delinquency Prevention Act of 1974 and subsume its activities and appropriations within the Safe Streets Act, and amend the Safe Streets Act to remove the Part D correctional institutions and facilities authorization and allocate appropriations thereunder to Part C action block grants;*

(b) *Congress refrain from amending the Safe Streets Act to establish a separate program of block grant assistance to major cities and urban counties for planning and action purposes; and*

(c) *Congress amend the Safe Streets Act to authorize major cities and urban counties, or combinations thereof, as defined by the State Planning Agency for criminal justice (SPA), to submit to the SPA a plan for utilizing Safe Streets funds during the next fiscal year. Upon approval of such plan, a "mini block grant" award would be made to the jurisdiction, or combination of jurisdictions, with no further action on specific project applications required at the State level.*

The major purpose of this recommendation is to give State and local governments maximum flexibility, within the block grant framework, in determining the appropriate mix of the stimulative, supportive, and system building purposes of Safe Streets assistance. It would do so by removing the Part D corrections and certain juvenile justice requirements from the Safe Streets Act, shifting the funds appropriated under these provisions to Part C action block grants, and urging Congress to refrain from further efforts to earmark funds or to

establish separate but related program categories for particular functional or jurisdictional interests. However, local governments or combinations of such units designated by SPAs would be authorized to submit plans which would be the basis of "mini block grant" awards from the State.

Functional Categorization

It is now practically conventional wisdom that crime should be dealt with by a criminal justice system rather than by individual functional components operating in isolation from one another. State and local police, prosecutorial, court, and correctional agencies each need adequate personnel, facilities, and equipment. Yet, they must also be able to coordinate their efforts to reduce crime and improve the administration of justice.

During the early years of the Safe Streets program, the police received the majority of the block grant dollars. In 1971, Congress responded to this imbalance by establishing a separate category within the Safe Streets Act—Part E—for grants for correctional institutions and facilities. Not less than 20 percent of the Part C "action" appropriations were to be set aside each year for corrections, and States were to give satisfactory assurances in their comprehensive plans that Part E would not reduce the amount of action funds available for this purpose. In 1974, the Congress passed the Juvenile Justice and Delinquency Prevention Act, and required that action funding for juvenile delinquency programs be maintained at the FY 1972 level in order to receive financial assistance under that Act.

The courts have been the most recent functional component to come before the Congress seeking statutory recognition. Their case rests basically on three arguments. First, the separation of powers principle is violated by an executive branch agency—the SPA—planning for and allocating Federal funds to court related activities, and the independence of judges is compromised by their participation on SPA supervisory boards. Second, the judiciary has to compete for Federal funds with police, corrections, prosecution, and other functional interests, instead of being removed and protected from the political arena. Third, compared with the amounts of Safe Streets monies awarded over the years to police and corrections, the courts' present 16 percent national average is not considered a "fair share." Moreover, court spokesmen assert, the bulk of this amount goes to prosecution and public defender projects, leaving roughly only about six percent of Safe Streets action funds for purely judicial undertakings.

In the Commission's judgment, experience has proven that the block grant approach is the most feasible way to develop an effective intergovernmental criminal justice system. Functional categorization and the earmarking of funds undermine the block grant principle and raise questions concerning the degree to which Congress is willing to give recipients real flexibility in arriving at an appropriate functional and jurisdictional funding balance and in adapting Federal aid to their own needs. They generate needless duplication of effort and increase administrative costs. Moreover, in the long run they would accentuate the functional fragmentation in the State-local criminal justice field which presumably it is seeking to correct. By reversing the categorization trend, the Act can be a more effective systematic catalyst for interrelated police, prosecutorial, court, and correctional activities within individual jurisdictions as well as between cities, counties, and their State government.

With respect to the Part E and juvenile justice provisions of the Safe Streets Act, the Commission favors repeal. Although it can be argued that these have had few major adverse effects on State planning and administration, this is not to say that individual States have not or will not experience difficulty in the future. In the case of Part E, while earmarking and maintenance of effort requirements have helped make more Safe Streets funds available for correctional institutions and facilities, in some States a balanced funding pattern probably would have occurred in the absence of this amendment as corrections and other interests became better organized, better represented on SPA supervisory boards, and more skilled in developing and defending project proposals. The decline and stabilization of the police share over the years, and the corresponding increases in the proportion of block grant funds made available to other functional components, underscores this belief. In the Commission's view, therefore, these statutory restrictions on States should be removed.

Turning to juvenile justice, the appropriations levels under the 1974 Act have been relatively low to date and the planning, organizational, and maintenance of effort requirements have not been burdensome in most cases. The Commission

believes that the sections of Title II of the Act establishing national and State advisory committees on juvenile justice matters, creating new units within LEAA, and encouraging greater representation of juvenile interests on supervisory boards should be scrutinized to identify overlapping and redundancy with the Safe Streets Act. The provisions dealing with matching, pass-through, planning procedures, and administrative requirements also need to be reviewed and any inconsistencies with the Safe Streets Act should be eliminated. The requirement for SPAs to prepare and submit an additional functional plan, which may or may not be incorporated into the State comprehensive criminal justice plan, appears to be especially duplicative, time consuming, and costly. The maintenance of effort provisions also are undesirable, and probably unnecessary. If, as the Commission believes, the problems of juvenile justice and delinquency prevention are so great and the necessary remedial action encompasses both criminal justice and social service agencies, then in addition to eliminating or subsuming the above provisions, Congress should consider raising the authorization and appropriations levels for Part C of the Safe Streets Act to include the amounts provided for under Title II of the 1974 legislation as well as such additional funds as Congress may deem necessary. However, the States should determine the degree of funding and program emphasis for juvenile justice and delinquency within the overall block grant framework. An arbitrary national level, such as the present maintenance of effort provision, should be avoided since it ignores significant differences between the States in their needs, resources, and priorities in this area.

The Commission is fully aware of the reasons both functional areas received special attention in the Safe Streets Act. Moreover, it is sensitive to the need to invest substantially more resources in the rehabilitation of adult and juvenile offenders. Yet, these objectives can be accomplished within the framework of the block grant. The States' record in distributing Federal funds, as well as utilizing their own resources, has been steadily improving as SPA planning, managerial, and decision-making capacities have increased over the years and as representation on supervisory boards has become more balanced. While there have been some gaps, the Commission is confident that SPAs are equipped to effectively respond to the needs of these and other functional areas.

With respect to the courts, unless our system of justice can guarantee swift, sure, and fair disposition of cases, the public will have little respect for the law and potential offenders will not be deterred from criminal activity. To better achieve these objectives, more resources should be provided to our nation's court systems. The Commission agrees that the unique position of the judiciary warrants special attention in implementation of the Safe Streets Act. The integrity, impartiality, and independence of the judicial branch should not be violated.

The Commission recognizes the view of some court spokesmen that establishment of a separate category of assistance for the courts for planning and action purposes would give appropriate recognition to the separation of powers doctrine and remove the judiciary from the political pressures and entanglements presently associated with the competition for Safe Streets funds. In our judgment, however, categorization is not the way to resolve the complex and sensitive issues involved here. A number of procedural options are set forth in Recommendation 7.

While establishment of a separate category of assistance as in the corrections case would unduly restrict the flexibility of State and local governments, the Commission believes that more financial assistance needs to be targeted on the judiciary in order to "catch up" with the funding levels of other components of the criminal justice system. Using the Administrator's Discretionary Funds for this purpose is the approach most consistent with the block grant concept. Each year, court related needs and the SPA's response to them could be reviewed by LEAA, and supplemental monies awarded on a State-by-State basis. This would provide a flexible response to a short-term problem which should eventually be resolved through greater judicial participation in the Safe Streets planning and funding processes at the State level.

Jurisdictional Categorization

Practically since the inception of the Safe Streets program, there has been heated debate over whether SPAs are allocating a proportionate share of action funds to large local units having the greatest crime reduction needs. While Congress has stated that no State plan is to be approved by LEAA unless it provides for the allocation of adequate assistance to areas having both "high

crime 'incidence and high law enforcement and 'criminal justice activity,' representatives of the nation's cities and counties have argued that both the States' response and LEAA's enforcement have been uneven. They assert that greater amounts of action monies need to be targeted on high crime areas on a continuous basis. Such concentration of the relatively limited Federal resources is the only way to have an impact on crime reduction. Of the several statutory changes that have been suggested in this regard, two appear to be the most popular: establishment of a separate block grant program for major cities and urban counties, or combinations thereof, administered by LEAA; and requiring SPAs to set aside a portion of their block grant allocation, as determined by a formula emphasizing need factors, into a fund to be used by larger jurisdictions.

The Commission notes the long-standing concern of those who argue that a proportionate amount of Safe Streets dollars should go to areas having the severest crime problems. It is aware that several large cities individually receive substantially fewer funds than their share of State crime rates or population would appear to warrant. Yet, it also recognizes that in several States a jurisdictionally balanced funding pattern has been achieved. Given the fact that crime ignores the boundaries of local government, and that inter-local action is often required to detect, apprehend, process, and rehabilitate offenders, it is reasonable to view these actions within the framework of a city-county criminal justice system. Counties, after all, have been assigned significant responsibilities in operating the courts and correctional institutions, as well as performing law enforcement functions in unincorporated areas and in some incorporated places. Cities, on the other hand, are heavily involved in providing police protection, and to a lesser degree, perform certain prosecutorial and judicial activities. Analyzing the flow of block grant assistance over the years in terms of city-county criminal justice systems across the country reveals that larger jurisdictions have received a portion of action funds generally in accord with their share of population and slightly below their share of crime rates.

In short, the existing statutory provisions calling upon both LEAA and SPAs to give adequate attention to the needs of high crime areas appear to have had a positive effect. Although gaps still remain in some States' effort, the Commission is confident that with careful LEAA review of State comprehensive plans, more effective monitoring and evaluation of action programs, and greater representation of elected local chief executives and legislators on SPA and RPU supervisory boards, the responsiveness of these States can be improved and further categorization of the Act can be avoided.

At the same time, the Commission is concerned about the need to give greater certainty to local governments that their efforts to identify and prioritize problems and to prepare plans and applications to remedy them will not be in vain. Officials of large counties and cities have contended, for example, that at the local level planning takes place in a vacuum because the amount of funds available for new undertakings is difficult to determine and that too much time must be spent developing and defending individual applications. To these observers, the costs associated with obtaining Safe Streets funds may outweigh the benefits derived from such aid. In the Commission's view, steps should be taken to remove these procedural bottlenecks in the program and to reduce administrative costs.

The "mini block grant" arrangement, such as practiced in Ohio, can be a significant tool for making Safe Streets implementation at the State and local levels more effective and efficient. Under this procedure, larger local governments designated by the SPA would prepare plans for their crime reduction and criminal justice system improvement needs during the next fiscal year. In determining eligibility, SPAs should emphasize population size (particularly whether the locality exceeds 100,000), crime rates, and other appropriate measures of need. The jurisdiction's direct criminal justice expenditures also could be considered in connection with assessing its willingness and capacity to deal with crime problems. Individual units, as well as combinations thereof, meeting these criteria would submit their plan to the SPA for approval. These plans would have been previously reviewed by the A-95 clearinghouse in the region encompassing the applicant jurisdictions, and comments would have been attached for SPA consideration. Hopefully, such plans would be comprehensive, in the sense that they would contain data, analyses, and projections similar to those called for in the Act with respect to the State plan, and would not be merely "shopping lists" for projects. Following approval of the local plan, a "mini block grant" award would be made by the SPA to implement the contents.

Further applications for individual projects contained in the plan would not be required. It would be the responsibility of the recipient to implement the approved "package" of projects and to account to the SPA for results. The SPA, of course, would continue to perform monitoring, evaluation, auditing, and reporting functions. This "packaging" procedure, then, could free up SPA supervisory board and staff time to devote to planning and policy matters instead of grant management, reduce administrative costs, expedite execution of projects, and give local units a greater incentive to plan for both Safe Streets and non-Federal criminal justice resources.

The Commission is aware that a somewhat similar procedure is already contained in the Safe Streets Act (the so-called "Kennedy amendment"). However, the "mini block grant" approach differs from this provision in two major respects: (1) the eligibility of local jurisdictions would be determined by the SPA rather than confined to a fixed statutory 250,000 population floor for individual units or combinations thereof, thus enhancing State flexibility and making it possible for smaller units having serious crime problems to participate in this arrangement; (2) the present Act does not specify that once a plan has been submitted and approved, no further State level review and action on individual applications contained therein would be required, making expeditious local implementation uncertain. Largely as a result of these limitations, for example, 71 percent of the respondents to a 1975 survey of the nation's 55 largest cities conducted by the National League of Cities—U.S. Conference of Mayors indicated that the "Kennedy amendment" had produced no change in local administration of Safe Streets funds.

In the final analysis, the feasibility of the Commission's recommendations for "decategorizing" the Safe Streets Act and avoiding future actions which would unduly restrict recipient discretion depends heavily upon Federal and State efforts to ensure that the intent of Congress is being achieved. In particular, the oversight and leadership roles of LEAA would have to be strengthened, yet kept consistent with the block grant concept. At the same time, the authority and credibility of SPAs need to be increased. Subsequent recommendations seek to achieve these objectives.

RECOMMENDATION 2: PERSONNEL COMPENSATION LIMITS

The Commission recommends that Congress amend the Safe Streets Act to remove the statutory ceiling on grants for personnel compensation.

Personnel compensation constitutes a substantial portion of the expenditures of State and local programs to reduce crime and improve the administration of justice. About 90 percent of overall local law enforcement outlays, for example, are for this purpose. Many jurisdictions, however, still have inadequate numbers of well trained policemen, correctional officers, prosecutors, judges, and other criminal justice professionals. Recent efforts have gone far toward bettering the pay and caliber of police departments, but correctional institutions and courts are still facing serious problems in attracting and retaining qualified personnel. Specialized positions in criminal justice planning and administration, crime research and statistics, and training also are difficult to fill.

In light of the foregoing, the Act's provision that no more than one-third of an action grant may be used for personnel compensation has hindered the efforts of some jurisdictions to meet their most pressing need—acquiring sufficient personnel to operate their law enforcement and criminal justice agencies. This requirement restricts the freedom of cities, counties, and State agencies to establish priorities and to develop programs to meet their needs. In some cases, it may lead to action grant awards being used for projects of secondary or even lower priority to the recipient.

In calling for elimination of the personnel ceiling, the Commission is fully aware of the continuing concerns of some observers that this action might tempt States and localities to apply for Federal funds only for this purpose, rather than developing innovative proposals for law enforcement and criminal justice improvements. To some, unlimited Federal funding of State and local personnel might lead to a national police force. These attitudes were a major reason for the Commission recommending in its 1970 report that LEAA be authorized to waive the ceiling on grants for personnel compensation. At that time, it was felt that the personnel needs of State and local governments could be considered on a case-by-case basis in conjunction with the broad program goals established in the State comprehensive plan and the national objectives specified in the Safe Streets Act. However, the five years since then have witnessed growing State and local sophistication in criminal justice planning and

program development, and a lessening of the fears about a national police force. There has been a marked shift away from funding routine equipment purchases and toward the provision of new services. Partly as a result of these changes, personnel needs have not abated; indeed, in many places they have risen. Hence, retention of the statutory ceiling increases the possibilities for skewing applicant priorities.

In light of these factors, the Commission believes that the SPAs and LEAA possess the capacity to effectively oversee the use of Federal funds for personnel purposes, as well as the authority to intervene and modify such uses in instances where it is deemed appropriate to do so. This approach maximizes flexibility and encourages decisions based on assessments of an applicant's overall needs rather than the dictates of an arbitrary statutory provision. It is consistent with both the block grant concept and implementation experience to date.

RECOMMENDATION 3: LEAA OVERSIGHT

The Commission recommends that LEAA develop meaningful standards and performance criteria against which to determine the extent of comprehensiveness of State criminal justice planning and funding, and more effectively monitor and evaluate State performance against these standards and criteria.

This recommendation responds to the complaint of State and some local officials that LEAA has not developed adequate performance standards for evaluating the quality of State plans and SPA implementation efforts.

While, LEAA has made an effort through planning guidelines to ensure that the States incorporate all of the components of a comprehensive plan specified in the Act and put action funds into related functional "pots," after seven years of experience greater attention needs to be given to more substantive matters. Lacking qualitative standards, effective monitoring and evaluation of SPA performance is difficult, and the bases for plan approval tend to be too subjective.

The Commission believes that these standards and criteria should be process and management oriented. They should not address basic changes in the State-local criminal justice system or its functional components, such as those developed by the National Advisory Commission on Criminal Justice Standards and Goals. The following examples of possible performance standards relating to SPA planning and fiscal administration underscore this basic distinction. They are offered merely for illustrative purposes, and would need refinement before they could become operational.

Planning:

All SPAs must identify at least their top ten annual priorities for reducing crime and improving the criminal justice system, indicate the distribution of Safe Street funds among these priority areas, and analyze the relationship with the expenditures and activities of other State and/or local law enforcement and criminal justice agencies.

All SPAs must identify during the planning process individual projects (including the recipients and amounts of funds) totaling at least 50 percent of the action funds, and report on progress in implementing such projects supported during the previous fiscal year.

Local participation:

All units of local government eligible for Safe Streets funds must be informed in writing of existing or proposed SPA policies and priorities and the annual availability of Safe Streets funds.

All units of local government eligible for Safe Streets funds, or regional planning units representing such jurisdictions, must be given an opportunity to review and comment upon the SPA annual comprehensive plan prior to its adoption by the SPA supervisory board and submission to LEAA.

Continuation funding:

All SPAs must have a formally adopted policy governing the length of time individual programs or projects may receive Safe Streets funds. In no case may individual projects or programs receive the equivalent of more than three years of full Federal funding at a 90-10 matching ratio.

The total amount of Safe Streets funds committed to funding continuation projects in a given year must not exceed 50 percent of the total State block grant allocation.

Fund flow:

All SPAs must award at least 90 percent of their total block grant within one year after receipt of the block grant funds from LEAA.

In the Commission's view, such standards to be workable should be formulated by LEAA in conjunction with the National Conference of State Criminal Justice Planning Administrators and other Public Interest Groups.

The development of national standards should be accompanied by improvements in LEAA's capacity to monitor, evaluate, and audit State performance. While reliance on special conditions attached to annual plans by Regional Offices has been useful on a case-by-case basis, enforcement of State compliance has not been consistent. One result of inadequate Federal administrative oversight has been the pressures for functional and jurisdictional categorization and earmarking described in Recommendation 1. Despite the wide latitude accorded recipients under the block grant approach, a review of the various provisions of the Safe Streets Act as amended reveals considerable clarity as to both the substance of State plans and action programs and the procedures by which decisions should be made on these matters, the authority of LEAA to generally oversee SPA operations and to specifically ascertain whether they adequately address the needs of high crime areas, the problems of organized crime and civil disorders, and other congressional priorities is clear. This includes the authority, if not the obligation, to disapprove entire State comprehensive plans instead of their components—something that LEAA has been unwilling to do in all but a handful of cases since 1969. In short, what has been lacking is not a statutory basis for action but rather an LEAA commitment to enforce the letter as well as the spirit of the law.

The Commission is aware of and encouraged by LEAA's recent efforts, especially in the monitoring and evaluation areas. However, it believes that the pace and priority accorded to these activities—in terms of time, personnel and funds—need to be increased. Moreover, a closer reporting relationship between LEAA and the Congress need to be established. In particular, organizational responsibility for monitoring, evaluation, and auditing needs to be better focused. Each year LEAA should provide detailed reports to the Congress on the status of State comprehensive planning, State-regional-local implementation efforts, and LEAA central and regional office operations. The impact of the Safe Streets Act on the reduction and prevention of crime and delinquency and on the improvement of the criminal justice system should be assessed. This information would provide a basis for more effective, and hopefully more frequent, Congressional oversight.

The Commission realizes that the establishment of national standards and the upgrading of Federal monitoring, evaluation, and auditing functions are difficult, time-consuming, and potentially controversial undertakings for all concerned. We are familiar with the difficulties encountered in the course of LEAA's previous efforts to establish SPA performance criteria. We are also sensitive to the constraints imposed by the block grant on the Federal administering agency. And we are aware of the time demands on Congress. Yet, at this point in the evolution of the Safe Streets program, it seems essential to begin a serious effort on these fronts if pressures for further statutory categorization are to be abated, and if Congress is to be given adequate assurance that the legislative intent of the Act is being accomplished.

RECOMMENDATION 4: STATE PLANNING

The Commission recommends that in lieu of an annual comprehensive plan, SPAs be required to prepare five year comprehensive plans and submit annual statements relating to the implementation thereof to LEAA for review and approval.

The scope and quality of the planning effort envisioned under the Safe Streets Act is difficult for many SPAs to attain. The limited authority of most SPAs, tight LEAA plan submission deadlines, inadequate Part B funds, and substantial staff time devoted to compliance with Federal guidelines and procedural requirements makes comprehensive planning difficult if not impossible. In some States the SPA, RPU, or local planning agencies may be involved in various phases of three or four comprehensive plans at the same time—evaluation of one, implementation of another, and data collection and analysis for a third. As a result of these factors Safe Streets planning has been largely directed to the allocation of Federal dollars.

This recommendation addresses the above problems by modifying the requirements for preparation of an annual plan to more realistically reflect SPA staff capabilities, as well as the time involved in establishing an effective planning process and in producing a quality plan.

The pretense of preparing a comprehensive plan on an annual basis would be scrapped. In its stead States, at a maximum, would have to develop only one plan covering a multi-year period. Annual statements would be submitted to update the plan and report on implementation progress. The intent here would be to focus more attention on a truly comprehensive planning effort involving thorough analyses, based on empirical data, of present and projected needs, and the capacity of existing State and local agencies to deal with them; standards and goals to be achieved; the relationship between Safe Streets supported activities and direct State, regional, and local undertakings; and other factors. This approach would encourage the development of well integrated strategies to reduce crime and improve the administration of justice. The complaint that "funding forces out planning" would no longer be justified, then, and the image of State comprehensive plans as glorified shopping lists for projects would be erased; moreover, SPA planning and analytical capabilities would be enhanced.

The Commission recognizes the view of many SPA and local officials that the level of Part B funding has been inadequate. Yet, in light of the constraints imposed by the nation's recent economic problems as well as the pressing needs for "action" funds to help deal with rising crime rates, the Commission is reluctant to recommend increases in appropriations for planning purposes. Instead, it believes that available dollars should be utilized more effectively. A five-year time span for planning is a major way to accomplish this purpose.

A more realistic approach to planning also would improve Federal oversight. LEAA would be able to assure itself, and the Congress, that national priorities were being adequately addressed through review and approval of annual statements on implementation progress and cross-referencing them to the State's comprehensive plan. The scrutiny of these statements, and periodic revision of the plan, would facilitate monitoring, evaluation, and auditing of SPA performance. In short, more effective utilization of Federal, State, regional and local staff, some cost-savings, and a more usable planning document would occur.

RECOMMENDATION 5: THE GOVERNOR'S ROLE

The Commission recommends that Governors and, where necessary, State legislatures, authorize the SPA to (a) collect data from other State agencies related to its responsibilities; (b) engage in system-wide comprehensive criminal justice planning and evaluation; and (c) review and comment on the annual appropriations requests of State criminal justice agencies.

The State's chief executive normally establishes the State Planning Agency, names supervisory board members, and directs other State agencies to cooperate with the SPA. The governor also may designate regional planning units. In the 35 States lacking a statutory basis for the SPA, these activities are accomplished by executive order and may be periodically changed in response to gubernatorial turnover, executive branch reorganizations, and other factors. Despite their formal responsibilities under the Safe Streets Act, on a day-to-day basis most governor's influence is generally exercised through the selection of supervisory board members and appointment of the SPA executive director. In part, this level of participation reflects the heavy demands on the chief executive's time, as well as the relatively small amount of funds available under the Act.

One effect of the limited gubernatorial involvement in the Safe Streets program in many States has been the restriction of the SPA to Safe Streets-related activities, even though the block grant instrument is supposed to address criminal justice in a system-wide context. With few exceptions, SPAs have not been authorized to collect criminal justice data from other State agencies, to develop comprehensive plans for the entire criminal justice system, or to influence State resource allocation decisions through the review and comment on the appropriation requests of its law enforcement and criminal justice agencies. Neither the representation of these agencies on supervisory board nor the provision of planning and technical assistance to them have been successful in enabling SPAs to become a more integral part of the State criminal justice system. As a result, SPAs are still viewed largely as planners for and dispensers of Federal aid.

This recommendation is designed to enhance SPA authority and credibility by making it responsible for system-wide planning and providing access to the criminal justice information necessary to effectively discharge this function.

While the Commission does not believe it appropriate to specify the most desirable location of the SPA in the executive branch, it seems preferable that, in light of the review and comment role vis-a-vis appropriations requests for State criminal justice purposes, it be closely affiliated with an agency having responsibility for resource allocation decisions for the criminal justice area—such as a department of justice, budget office, or the State's general planning agency—instead of being a free-standing unit or a subdivision of a particular functional department like public safety.

RECOMMENDATION 6: THE LEGISLATURE'S ROLE

The Commission recommends that, where lacking, State legislatures (a) give statutory recognition to the SPA, including designation of its location in the executive branch and the establishment of a supervisory board; (b) review and approve the State agency portion of the States' annual comprehensive criminal justice plan; (c) include Safe Streets-supported programs in the annual appropriations requests considered by legislative fiscal committees; and (d) encourage the public safety or other appropriate legislative committees to conduct periodic oversight hearings with respect to SPA activities.

Though the legislature appropriates matching and "buy-in" funds, makes decisions about assuming the costs of projects, and in 20 of the States sets up the SPA, its awareness of and substantive participation in Safe Streets has been quite limited. This is due partly to the fact that the program is still viewed as the governor's, as well as to the relatively low funding level. In too many States, the legislature has no real say in planning and policy decisions, yet is expected routinely to fund programs submitted by the governor and the SPA. Lack of legislative involvement makes it difficult to mesh Safe Streets with other State criminal justice outlays, to exercise effective oversight, and to relate this program to any broader efforts to reform the criminal justice system.

This recommendation is geared to increasing legislative participation and to moderating the "governor's program" image. Providing a statutory basis for the SPA would enhance its stability, and would particularly help reduce the confusion occurring when a new governor assumes office and/or a new executive director is appointed. It is the Commission's view that in designating the composition of the supervisory board, the legislature should include an appropriate number of its own members appointed by the leadership.

The review and approval of State agency portions of the State plan and consideration of Safe Streets supported activities together with other annual appropriations would provide an opportunity for the legislature to have a major input into both planning and funding. With respect to the former, the legislature's approval of this document and its annual updates, would give them official status as a policy framework for the development of a coordinated state-wide strategy to deal with law enforcement and criminal justice needs. Each legislature should decide whether a general review or a program-by-program consideration of the plan is in order. If the latter, then the legislature would have an opportunity to scrutinize, and possibly modify, the policy decisions of the governor and SPA supervisory board.

Turning to finances, requests for Safe Streets matching and "buy-in" funds would be reviewed against the plan and either lump sum or line item appropriations would be made. Under this arrangement, the policy-making process for Safe Streets would follow that used for non-Federally funded programs, under which the governor would submit programs and a budget to the legislature for its approval, modification, or disapproval. The SPA would relate to the legislature in much the same manner as other State agencies. Coupled with the periodic oversight by substantive committees, this recommendation would substantially increase the legislature's role and responsibilities in priority setting for criminal justice, regardless of the source of funds. At this point, the State of Michigan has come closest to adopting this model; most legislatures, however, do not appropriate all Federal funds prior to their expenditure by State agencies.

Not to be overlooked, of course, is the willingness and capacity of the legislature to enter the Safe Streets arena. Some legislative bodies would not be equipped to do so, in light of the biennial nature of or limitations on the duration of sessions, high turnover, fragmented committee structure, insufficient staff assistance, and other factors. Particularly in States having biennial sessions, it would be necessary for the legislature to designate individual legislators or a committee to perform the functions called for in this recommendation during

the interim period. But these are questions of overall legislative strength and authority. Their impact on the criminal justice area generally and the Safe Streets program, in particular, only dramatize how necessary it is to shed these shackles. Authoritative reforms in and adequate fiscal support for State-local criminal justice systems, after all, depend heavily on the posture of the legislative branch.

The legislature, then, should not be precluded from participation if it so desires. This recommendation provides a channel for such involvement, with the net result being a pattern of shared authority between the executive and legislative branches and conceivably greater encouragement for the SPA's to focus more of their efforts on systemic problems in the criminal justice area that are of concern to the legislatures.

RECOMMENDATION 7: THE COURTS

The Commission recommends that SPAs give greater attention to needs of the courts, while recognizing their unique constitutional position, by (a) providing for greater participation by representatives of the judiciary on the supervisory boards; (b) increasing the proportion of action grants awarded for the judiciary and for court-related purposes; and (c) establishing, where feasible, a planning group representing the courts to prepare plans for and make recommendations on funding to the SPA.

As was indicated in Recommendation 1, the Commission agrees with those who argue that greater attention needs to be given to the courts in the Safe Streets program. At the same time, it believes that establishment of a separate category of assistance as in the corrections case would be undesirable, since it would unduly restrict the flexibility of State and local governments and be contrary to the spirit of the block grant. Yet, the Commission considers the present SPA mechanism needs certain modifications to increase its responsiveness to the courts. More judicial representation on the supervisory board is in order, and more encouragement to justices to participate in SPA affairs needs to be given. In part, the funding pattern for courts reflects this inadequate representation and reluctant involvement, and efforts to reserve these tendencies ought to result in greater support for court activities. A 1975 study by the Special Study Team on LEAA Support of the State Courts, for example, found that in states having judicial participation in the SPA's planning process, generally a larger share of action funds was awarded to court programs.

Turning to separation of powers, some viable procedural options are available here. Basically, court planning should be vested in the judiciary. The Commission supports the creation of a body composed of State and local judges, court administrators, and others to formulate plans for court needs, obtain local input, set priorities for their proposals, and make recommendations for consideration by the SPA. This could be done by the legislature, the governor, or the SPA. While the SPA would scrutinize the court plan and the recommendations for implementation contained therein, the presumption would be that more times than not they would be approved and funded. While the Commission does not feel that a specific target funding level is appropriate, a minimal guide for SPAs to consider is the relationship between the proportion of Safe Streets funds allotted for judicial branch activities and that of State-local direct criminal justice outlays for this purpose.

This basic arrangement has been used successfully by California. It seems to us to be a desirable way to ensuring the independence of the judiciary without undermining the comprehensive criminal justice planning efforts of the SPA. We urge its adoption by other States.

RECOMMENDATION 8: GENERALIST PARTICIPATION

The Commission recommends that Congress amend the Safe Streets Act to (a) define "local elected officials" as elected chief executive and legislative officials of general units of local government, for purposes of meeting the majority representation requirements on regional planning unit supervisory boards, and (b) encourage SPAs which choose to establish regional planning units to make use of the umbrella multijurisdictional organization within each substate district.

A key feature of the block grant instrument is the enhancement of the power position of elected chief executives and legislators and top administrative generalists vis-a-vis functional specialists. For example, the Safe Streets Act calls

for the creation of intergovernmental, multifunctional supervisory boards at the State and, where used, regional levels. In the 1973 amendments to the Act, Congress affirmed this position by requiring that a majority of the members of regional planning unit (RPU) boards be local elected officials. However, some confusion has arisen over who qualifies as a "local elected official." In some States, sheriffs are considered in this category. This imprecision leads to inconsistent representational policies and effectively thwarts the objective of Congress in mandating such representation. For example, approximately one-third of the regional and local officials responding to an ACIR survey indicated that the 1973 requirement had produced no effect on RPU supervisory board decision-making. Hence in, the Commission's judgment, the Act should specify that "local elected official" refers to chief executives and legislators—not elected law enforcement or criminal justice functionaries.

Interstate diversity characterizes the designation and use of regional planning regions. About half still are free-standing multicounty or single county entities, and are linked to generalist-oriented multifunctional planning bodies such as councils of governments (COGS) only by the A-95 review and comment process. With the exception of the few States that have used a "mini block grant" approach, most regions prepare plans, help constituent localities develop applications, provide a forum for communications, and furnish other technical assistance. Yet, it appears that this plethora of single function, limited authority regional bodies is not an efficient or effective way to plan for criminal justice needs. After all, crime reduction is related to many other concerns—environment, health, economic development, transportation, and the like—that also have regional significance. Moreover, in view of the relatively limited amount of Part B planning funds available under the Act, many RPUs are inadequately staffed and too subject to shifts in the fiscal winds at the State and Federal levels. In the Commission's view, integration of criminal justice planning with COGs or other Federally supported planning efforts embodying some of the components an umbrella multijurisdictional organization framework—such as that recommended by the Commission in its 1973 Substate Regionalism report¹—would enhance functional coordination, bolster the credibility of the plan, improve the utilization of professional planning staff, and increase monitoring and evaluation efforts.

STATEMENT OF DAVID B. WALKER, ASSISTANT DIRECTOR, THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. WALKER. I think you're familiar with the Commission, Mr. Chairman. There's no need to belabor the fact that ours is a multi-level group with Federal, State, and local people on it. And we looked at LEAA in depth from March through November of last year.

We appear this morning simply to favor S. 3043 because it reflects in all major respects the eight basic recommendations that the Commission adopted last November. There are a few small areas that we could debate, if we had the time. But they are highlighted in the testimony, and we are prepared to talk to staff with regard to those particular issues.

But the three basic problems that the subcommittee confronts, as we see it, are incorporated in your measure and we think it handles them quite well. You've got the problem before you of the courts and we debated that. The only question I might raise here is whether the chief judge of the highest court or whether the whole higher court or—and we would offer this as a possibility—whether the legislature might put the judicial planning committee on a statutory base? After all, there is vast diversity within the 50 State systems with regards to the way in which the judiciaries are organized. Only

¹ See *Regional Decision-Making: New Strategies for Substate Districts*, Volume I, A-43, October 1973, Chapter 11, pp. 330-374.

about three-fifths—30 of the States—really have what might be called “integrated” or unified State-local judicial systems.

On the other two points, my colleague would have raised and discussed these, if we had the time, on the ins and outs of the funding and planning responsibilities assigned to major cities and urban counties. The approach reflected in the miniblock grant approach in your bill looks very good. The only question we would have involves the factors to be used in determining eligibility, and this point is discussed in our statement. The third area concerns LEAA stewardship: the role of LEAA vis-a-vis the SPA's, obviously, is the heart of the issue basically raised by this set of hearings and the previous ones. That is to say: how do you arrive at the delicate balance between the Federal Government and the States in this block grant program? We think S. 3043 does a pretty good job in terms of reaching that balance. Initially I was concerned that the kinds of things called for would be so onerous in terms of LEAA that, conceivably, the manpower allocated would be inordinately great. But after thinking this over, it seems that these provisions basically boil down to the three things that LEAA ought to be doing: Substantive review of the plans, adequate monitoring and evaluation and collection of accurate and reliable fiscal data. And these are the three basic responsibilities any Federal agency administering a block grant ought to be performing.

So, in general—and you'll see the points where we differ a bit—we support the measure as pretty much incorporating the basic recommendations we adopted in November.

Senator KENNEDY. That's very helpful and it's music to my ears on Saint Patrick's Day. You've talked about the mini-block grant provision of the bill—

Mr. WALKER. Yes.

Senator KENNEDY [Continuing]. Your strong support of that.

Mr. WALKER. Yes.

Senator KENNEDY. And we'd appreciate any suggestions or recommendations in those three areas that you have and we'll work with you. We want to thank you for your comment and your statement and appreciate your presence here.

Mr. WALKER. Good to be with you.

Senator KENNEDY. And we'll be staying in touch with you. We'll recess.

[Whereupon, at 12 noon, the subcommittee adjourned, subject to the call of the Chair.]

MARCH 17, 1976.

HON. HAROLD TYLER,

Deputy Attorney General, Department of Justice, Washington, D.C.

DEAR JUDGE TYLER: Senator Thurmond, a member of this Subcommittee, has asked that you response for the hearing record to the following questions pertaining to the issues raised in hearings this date on LEAA reauthorization:

1. Do you think the additional Federal oversight provided by S. 3043 is necessary?

2. Won't this additional Federal oversight cause delays and increased administrative expense?

3. In light of the already burdensome Federal bureaucracy, is this extra “paperwork” expense justified?

With kindest regards, I am

Sincerely yours,

JOHN L. MCCLELLAN.

ASSOCIATE DEPUTY ATTORNEY GENERAL,
Washington, D.C., April 9, 1976.

HON. JOHN L. McCLELLAN,
Chairman, Subcommittee on Criminal Laws and Procedures, Committee on the
Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR McCLELLAN: In your letter to the Deputy Attorney General of March 17, 1976, you requested responses to several questions posed by Senator Thurmond concerning reauthorization of LEAA. In Judge Tyler's absence, I have undertaken to provide a summary of his position on the issues raised by Senator Thurmond.

While testifying on March 17 before the Subcommittee on Criminal Laws and Procedures, Judge Tyler stated his belief that there is a need for improved evaluation, both prospective and retrospective, of LEAA programs. He agrees in principle with that portion of S. 3043 which attempts to incorporate effective evaluation into the LEAA statute. As Judge Tyler indicated during his testimony, however, he is concerned that the specific provisions of S. 3043 dealing with evaluation might prove unduly cumbersome.

LEAA's evaluation procedures should, of course, be designed to minimize delay and expense. We believe, moreover, that the administrative cost of an effective evaluation mechanism is fully justified by the prospect of more successful use of LEAA grant funds.

Sincerely,

RUDOLPH W. GIULIANI,
Associate Deputy Attorney General.

MARCH 17, 1976.

HON. RICHARD VELDE,
Administrator, Law Enforcement Assistance Administration, Department of
Justice, Washington, D.C.

DEAR MR. VELDE: Senator Thurmond, a member of this Subcommittee, has asked that you response for the hearing record to the following questions pertaining to the issues raised in hearings this date on LEAA reauthorization:

1. Do you think the additional Federal oversight provided by S. 3043 is necessary?

2. Won't this additional Federal oversight cause delays and increased administrative expense?

3. In light of the already burdensome Federal bureaucracy, is this extra "paperwork" expense justified?

With kindest regards, I am

Sincerely yours,

JOHN L. McCLELLAN.

U.S. DEPARTMENT OF JUSTICE,
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
Washington, D.C., March 23, 1976.

HON. JOHN L. McCLELLAN,
Chairman, Subcommittee on Criminal Laws and Procedures,
Committee on the Judiciary, U.S. Senate
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your inquiry on behalf of Senator Strom Thurmond.

You have asked for responses to three specific questions pertaining to issues raised in hearings on the Law Enforcement Assistance Administration reauthorization.

"1. Do you think the additional Federal oversight provided by S. 3043 is necessary?"

No. It is my opinion that present LEAA authority, and that proposed by the Administration in S. 2212, is sufficient to ensure compliance by states and localities with the provisions of the Act and the intent of Congress. S. 3043 appears to propose that LEAA go beyond "oversight" and, in effect, would place the state planning process under Federal "direction." As I noted in my testimony on March 17, 1976, before the Subcommittee, this appears to be a contradiction of Section 518(a) of the Crime Control Act which prohibits the exercise of any Federal "direction, supervision, or control over any police force or any other law enforcement and criminal justice agency of any State. . ."

"2. Won't this additional Federal oversight cause delays and increased administrative expense?"

Yes. The additional Federal oversight required by S. 8048 and the increased reporting requirements mandated by section 17 of the bill would significantly expand the administrative processes required of both LEAA and its grantees at the State and local levels of government.

"3. In light of the already burdensome Federal bureaucracy, is this extra 'paperwork' expense justified?"

As you know, LEAA's FY 1976 appropriation is approximately \$77 million below that of the previous year. Moreover, the Administration's budget request for FY 1977 represents a further reduction of \$102 million. During a period of diminished program resources, it does not seem appropriate to significantly increase the cost of administering those resources.

Please let me know if I can of further assistance.

Sincerely,

RICHARD W. VELDE, *Administrator.*

MARCH 17, 1976.

HON. WILLIAM A. GRIMES,
*Associate Judge, New Hampshire Supreme Court, Supreme Court Building,
Concord, N.H.*

DEAR JUDGE GRIMES: Senator Thurmond, a member of this Subcommittee, has asked that the panel of representatives from the American Bar Association, which appeared at the LEAA reauthorization hearings this date respond for the record to the following inquiry:

1. Do you think the participation of judges in the preparation of LEAA comprehensive plans violates, in principle, the concept of separation of powers?

With kindest regards, I am

Sincerely yours,

JOHN L. MCCLELLAN.

AMERICAN BAR ASSOCIATION,
Chicago, Ill., March 22, 1976.

HON. JOHN L. MCCLELLAN,
*Chairman, Committee on the Judiciary, Subcommittee on Criminal Laws and
Procedure, U.S. Senate, Washington, D.C.*

DEAR SENATOR MCCLELLAN: The answer to the question contained in your letter of March 17, 1976 is that we do not think that participation of judges in the preparation of LEAA comprehensive planning violates in principle the concept of separation of powers. The state planning agencies are designed to plan for all segments of the criminal justice system, which includes the courts. The doctrine of separation of powers is not so absolute as to prevent cooperation and coordination in planning for the improvement of the whole. We are all part of one government and there must be some interacting as a matter of practical expediency to make that government work.

We do think, however, that there is danger in the judiciary being dependent for grant funds on an agency which is dominated by the executive. Such a system places the executive in a position to use the granting power to attempt to control and influence the judiciary in the exercise of its functions. Judges should not be put in a position of having to lobby with chiefs of police, sheriffs and prosecutors, all of whom have an interest in the decisions of the courts, in order to obtain grants to make improvements in the judicial systems. For these and other reasons, we strongly support the provisions which authorize the establishment of judicial planning committees in each state for the development of plans and the dispensing of funds for projects with the judiciary.

I hope that this satisfactorily answers your inquiry and that you will not hesitate to call upon us for any further assistance that we can give. We appreciate the opportunity to appear before the subcommittee and the kind and courteous treatment that we received.

With every good wish and kind regards, I am

Sincerely,

WILLIAM A. GRIMES.

STATE OF NEBRASKA,
 SUPREME COURT,
 Lincoln, Nebr., March 25, 1976.

Senator JOHN L. McCLELLAN,
 Chairman, Committee of Judiciary, Subcommittee, Criminal Laws and Procedure,
 U.S. Senate, Washington, D.C.

DEAR SENATOR McCLELLAN: Justice William A. Grimes, with whom I appeared before the Senate subcommittee considering the reauthorization of LEAA, has advised me that Senator J. Strom Thurmond would like an answer to the following question: "Do you think participation of the judiciary in the preparation of LEAA comprehensive plans violates in principle the concept of separation of powers?"

My answer would be "no" so long as the courts have a definite part in the preparation and operation of the program as it pertains to courts. There is no conflict in representatives of the courts working on mutual problems with the representatives of the other branches of government.

Under the present operation of LEAA programs through the local state planning agencies, the executive branch of the state government essentially can tell the judiciary of the state, either you plan, organize, and operate your courts in accordance with our wishes and plans or you will receive no LEAA funds, or only the LEAA funds we wish to give you for the programs we have planned for you. Under our Constitutional concept of separation of powers, it should be apparent to everyone that funds provided by this method must necessarily erode the doctrine of separation of powers so far as state courts are concerned.

The Conference of Chief Justices, recognizing the problem, has been recommending an amendment to the LEAA act which would provide for separate treatment for the judicial system. This amendment would be similar to the amendments that created special parts of the act for corrections and juvenile justice.

We are realistic enough to know, however, that the possibility of getting this type of relief is very slim. We believe, therefore, that we should seek amendments to the present Act which will minimize the possibility of erosion of the separation of powers doctrine.

Responsibility for the planning and initiation of court improvements must be vested in the judiciary. In the American Bar Association Resolution we are urging the amendment of LEAA to provide that plans and projects for the improvement of the state judicial system be determined by a judicial planning entity designed or created by the court of last resort of each state, this judicial planning entity to be representative of courts in the state judicial system.

Without this concept, which is embraced in Senator Kennedy's bill, S. 3043, it is virtually impossible to have any comprehensive criminal justice planning. In the past, most of the comprehensive criminal justice planning has been done by executive agencies, to the detriment of the courts, as has been suggested to you in testimony before your Committee.

When the judiciary is able to plan its own program, we are recognizing the doctrine of separation of powers and still providing the opportunity for the integration of the plans of other units in the criminal justice system into a comprehensive plan. This is accomplished in S. 3043 by the submission of the plans of the judicial planning entity to the state planning agency. In case of irreconcilable conflicts, the comprehensive plan of the judicial planning entity is referred to the LEAA Administration. We see this as preserving and not eroding separation of powers at the state level.

To maintain the separation of powers doctrine, however, this judicial planning entity must be designated or created by the court of last resort. The appointees must be knowledgeable in the problems of the court and entirely free of political pressures.

In another attempt to carry out the separation of powers doctrine, the ABA Resolution recommends that a certain percentage of the state planning agencies be representatives of the judiciary. The judiciary must not only have adequate representation on the state planning agencies, but also on the executive committees of such agencies where the actual work is done. In this way, the views of the judiciary can be explained to the other members of the state planning agency who in most instances will have little knowledge of the actual problems of the judiciary. If these representatives are to actually represent the judiciary, they should be nominated or appointed by the court of last resort in the state.

If your question is directed to the fact that LEAA funds are provided by

the Federal government, I have no problem. Congress is legislating to help solve a national crisis. It is not providing funds for the operation of state courts. It is funding research and planning projects, which might not be funded otherwise, to improve the efficiency of state courts. Too often, to obtain funds from state legislative bodies it is necessary to propose a program that can be immediately functional. This usually is impossible without prior study, planning, and research.

I urge your favorable consideration of the amendments to the LEAA Act suggested by the American Bar Association Resolution.

Respectfully submitted,

HARRY A. SPENCER,
Judicial Representative, ABA House of Delegates.

SUPPLEMENTAL STATEMENT OF RICHARD N. HARRIS, DIRECTOR, DIVISION OF JUSTICE & CRIME PREVENTION, COMMONWEALTH OF VIRGINIA AND CHAIRMAN, NATIONAL CONFERENCE OF STATE CRIMINAL JUSTICE PLANNING ADMINISTRATORS

Mr. Chairman and distinguished members of the Committee: The National Conference and I very much appreciate your invitation to submit this written testimony and thereby supplement our earlier oral and written submissions. As you will recall, the National Conference of State Criminal Justice Planning Administrators, representing the directors of the fifty-five (55) *State* and territorial criminal justice *Planning Agencies* (SPAs) created by the States and territories to coordinate their programs to improve the administration of justice, testified on October 8, 1975. At that time we outlined some of the major accomplishments of the States made possible through the provision of resources under the Omnibus Crime Control and Safe Streets Act of 1968 and its subsequent amendments. We also outlined thirteen (13) significant considerations in assembling legislation to reauthorize the program. These were:

(1) A reauthorization period of five (5) years would give the program a stability and continuity long needed to foster long-range planning and sustained thrust.

(2) The problem of crime has revealed itself to be more complex than once thought and the statute should recognize that the criminal justice system, and even less the limited LEAA support to strengthen that system, is only one variable with regard to the problem.

(3) The mounting basic requirements to be met by all States, large and small, in administering the program, coupled with rising costs in meeting those requirements, necessitates an increase in the base amount of Part B funds provided each State to \$350,000.

(4) The one-third limitation on funds to be expended on personnel compensation should be deleted.

(5) There should be a provision for multi-year plans with annual updates rather than a requirement for an annual plan submission.

(6) The statute should delete the lengthy description of what should be included in a comprehensive plan which encourages the generation of a compliance document rather than a planning tool.

(7) Language should be included to encourage the development and implementation of programs to strengthen courts and court planning capabilities.

(8) Authorization should be expressly included to apply Part C action fund resources to technical assistance and evaluation efforts.

(9) Statutory emphasis on the problems of civil disorders and organized crime should be deleted.

(10) The block grant principle should be preserved such that additional calls to categorize to ensure "fair share" allocations for particular branches of government, levels of government or criminal justice fields or interests, should be resisted and existing categorization (such as Part B for Corrections) which compromise the flexibility of genuine comprehensive planning and decision-making, should be removed.

(11) The program should remain a Governor's program, which does not inhibit the Chief Executive's freedom to select the most qualified individuals to serve on the SPA supervisory board, the Governor's ability to use the SPA to augment his expertise in providing criminal justice leadership, and at the same time permits the legislative branch of government to exercise its normal options.

(12) No quotas or formulas should be introduced for the composition or selection process regarding the supervisory board, recognizing constitutional

problems in some jurisdictions with respect to legislative and/or judicial involvement.

(13) The existing formulas and provision for matching requirements and state "buy-in" should remain intact.

In addition to the October 8 testimony, the National Conference has provided supplemental written statements on two occasions and at the request of Senator Hruska, the Subcommittee membership and staff have been provided advance copies of our soon-to-be-released report, the *State of the States 1976*.

Since our earlier testimony, Senator Kennedy, for himself and a number of his colleagues, has submitted S.3043, the Law Enforcement Improvement Act of 1976. We will use this opportunity to share with you our perceptions of the advantages and disadvantages inherent in this particular proposal.

At the outset we would like to recognize those features of S.3043 which are responsive to and in accord with what we encouraged in our testimony of October 8, 1975. The bill directly responds to point four outlined earlier in my statement deleting the one-third personnel limitation. It responds in part to point nine in removing statutory emphasis on civil disorders. It coincides in principle and objective with our point seven and eight that increased court programming and planning capabilities should be encouraged and additional resources be authorized for purposes of evaluation. However, S.3043 raises very serious concerns with respect to our point one concerning the reauthorization time period, point two on the clarification of program goal; point ten on the preservation of the block grant principle; point twelve on quotas and formulas for supervisory board composition; and by virtue of the functions prescribed for Judicial Planning Councils (JPCs) by S.3043, the bill raises an entirely new concern: duplication of effort and unnecessary administrative costs. We will address each of these concerns individually.

S.3043 proposes yet another three-year reauthorization period. The States and localities have been faced with responding to the provisions of the original Crime Control Act (1968), subsequent amendments (1970, 1973 and 1974), provisions of the Juvenile Justice Act (1974), and continuous change in federal leadership. There has never been a stable program within which to operate; never a long-term commitment of direction and predictable resource levels. S.3043 presents another short thrust with a new program emphasis, not a commitment or promise of continuity.

The problem of clear articulation of program goal is exemplified in S.3043. The bill's sponsor cites the escalation in crime over the past eight years as his chief indictment of the current program and the reasons for his proposed changes. The sponsor then goes on to incorporate as his major programmatic modification, a greater commitment to the judiciary to insure lower court backlogs, less trial delay and improvement in the quality of justice. We think these laudable goals and find them fully consistent with the foundation of the Crime Control Act—to improve and strengthen the quality, efficiency and humanity of the criminal justice system. However, lower court backlogs, reduced trial delay and improved quality of justice may have no direct correlation to the incidence or rate of criminal activity. In fact, there are research findings which indicate that swift, sure and even justice and crime reduction have no relationship at all! This does not render these objectives undesirable. It does, however, point to the overly-simplified view we all tend to have toward the problem of crime, and our tendency to overstate the importance of the variable in which we have the most interest.

The block grant principle includes the concept that the recipient can and should develop its own solutions to its problems as it assesses them, based on a methodology most consistent with its own peculiar circumstances and institutions, within broad and flexible constraints and parameters. As States we recognize the importance of the court system to the overall justice complex. Most States have done everything possible to entice the court to participate fully in the program. We encourage more court programming and the development of a judicially-supervised planning capability. But the establishment of court programming as a special and unique entity, the mandatory support of special planning councils with unique grant administrative powers and responsibility which mirror the SPA's own authority, the earmarkings of certain discretionary fund percentages and other provisions of this kind, all compromise the block grant idea to a point beyond recognition. We can see no reason for one component of the criminal justice system to have its plans presumptively valid or have a special procedure for federal judgement on disagreements on plan validity. Certainly court budgets, when presented to Governors and legislative bodies, are not afforded such unique treatment.

The foregoing observations are made in full recognition that the judiciary is a separate branch of government, thereby somewhat distinct from the balance of criminal justice agencies. With respect to substantive issues, a doctrine of separation of powers is operable. This, nonetheless, does not compel the separate administrative and procedural provisions called for under this bill. In fact, these provisions are destructive of the very objective of the program, the unification of a fragmented, uncoordinated system of justice, an end to which we have all, including the Congress, been committed since the initiation of the program.

The National Conference welcomes the attention that is being focused upon the courts in the criminal justice system. The National Conference and the fifty-five (55) SPAs have been actively seeking the full involvement of the courts over a number of years, particularly in the last two years. In 1974 the National Conference assisted in an intensive study of the participation of State courts in the crime control program, a study carried out under the auspices of American University by a team headed by John F. X. Irving, Dean of the Seton Hall University Law School. The National Conference, to the best of my knowledge, is the only national organization of criminal justice officials, including the various national judicial organizations, to thoroughly review each of the Irving team's recommendations, and take a position on them. The National Conference has accepted seven of the ten Irving report recommendations, some with modifications, and has called for each of the SPAs to take appropriate actions to implement them. The National Conference has made itself available to assist the SPAs wherever asked. The National Conference is presently working on the program for its next annual meeting to be held this July, the theme of which will be State court improvement. Assistance in preparation for this meeting to the National Conference is expected from LEAA, the National Center for State Courts, the ABA and the Conferences of State Chief Justices and State Court Administrators.

In a more direct manner each of the SPAs has been working as closely as possible with its court system to gain as much cooperation and coordination as possible. Most States have encouraged their court systems to develop judicial planning committees, and planning staffs, which are broadly representative of the courts full organizational make-up. Some court systems have done this. The appropriate structure and composition of these planning bodies varies from State to State. LEAA has made two significant grants to the National Center for State Courts and the National Conference of State Court Administrators to assist individual State court systems establish judicial planning committees and planning staffs. However, the courts are slow to accept LEAA money for the purpose of appointing court planners to already extant court administrators' offices or create new planning entities. Three principle reasons appear to be: (a) the courts distrust of planning and planners, (b) the unwillingness to appoint planners during an austerity time when State legislatures are already taking a hard look at sorely pressed judicial budgets, and (c) the unwillingness of courts to go to the State legislatures in three years to assume the costs of the programs. The problems that these two organizations are facing with the courts are similar to the problems the SPAs have been facing over the last several years despite the SPAs best efforts to fully involve the courts. The judges have often shown themselves uninterested in planning, management and administrative matters even after considerable effort and inducements have been offered to them. For too many judges usually perceive themselves as judicial personnel whose role is to adjudicate, almost exclusively, to the detriment of their management responsibilities. Many judges are unwilling to recognize that the court system is part of a larger criminal justice system which is in dire need of coordination of its component parts to work at all efficiently or effectively. But because the judges consider themselves part of a different branch of government, and as independent and self-sufficient, they do not often feel the need or desire to cooperate with other parts of the system. Finally, a common finding by SPAs has been that many judges, who must be independent in their adjudicatory role, resist being publicly accountable for their actions, whether of an adjudicative or of a management nature. Some judges fear that acceptance of grant money might result in the generation of information which can enable the public to observe judicial activity. In short, the actions of the court officials do not seem to justify their depiction as the deprived stepchildren of state government and of the criminal justice system.

Thus, even if Congress did enact the provisions of S. 3043, which would lead to further categorization and is opposed by the National Conference, the problems

that we have mentioned will still be present, and the courts may still be unwilling or slow to use federal money. Instead, the National Conference recommends that Congress adopt the language recommended in Section 4(1) of H.R. 9230 so that in the few cases where best efforts by the SPAs have not been made, LEAA can take appropriate action. In our view this approach is more likely to solve the problems we have identified.

The National Conference finds it ironic that some of the most vocal judicial critics of the present program are those judges who have been given the most financial assistance. In case after case where SPAs have asked these critics to cite specific examples where irrational, improper or insufficient SPA actions have been taken, concrete instances have not been forthcoming. The National Conference hopes that during the course of these hearings, such specific information is made available to you. The National Conference, and I am sure LEAA, are anxious to rectify situations which require remedying.

A premise which is at the crux of much of the debate concerning the courts is whether the courts have received their fair share of LEAA money. It is the National Conference's perception through its participation in a present study undertaken again under the auspices of American University that the courts are receiving a fair share. The actual amount and percentage of the total block grant appears to vary from State to State, depending on a large variety of factors, including judicial need, long-range plans, judicial willingness to participate in the program, and other priority programs. However, it appears that when the final results of the study are in, courts as tribunals will have received more money from LEAA sources than the percentage of the courts personnel as compared to total number of criminal justice personnel would seem to warrant, and would receive approximately the appropriate amount of money as compared to the percentage of court appropriations from State and local government as compared to the total appropriations of all criminal justice agencies from State and local government. Data compiled by the Advisory Commission on Intergovernmental Relations (A^UIR) indicates that grants to all areas of court activity (including the defense and prosecution functions) has been 13% of LEAA's funds available since the initial year, FY 1969. The current percentage of State and local criminal justice expenditures on this same broad "court" areas is 19%. It should be noted that the degree of emphasis on court programming has incrementally improved since FY 1969. The 13% figure is simply an aggregate of the years since 1968.

The block grant premise calls for the development of comprehensive plans on a statewide basis. The planning and priority judgements of localities are critical to the development of the state plan. Where appropriate the mechanism to facilitate such input may be the solicitation of city and/or county-wide plans. Also where appropriate, program funding may be on the basis of those plans. The National Conference is opposed, however, to a requirement that States grant so-called "mini-block grants" to localities as this method may be inconsistent with administrative and planning procedures established in a particular jurisdiction.

In no fewer than five passage of S.3043 the phrases "federal leadership and direction" or "federal direction and guidance" are used. The precise meaning of the term "direction" is not clear, but its presence in a block grant program is clearly inconsistent with the very premise of such a program, not to mention the originally established Congressional presumption that crime is a State and local problem. Indeed, the presumption that crime remains essentially a State and local problem cannot comfortably reside in a piece of legislation with terms which suggest a federal intent to establish federal control over the Nation's law enforcement and criminal justice system.

It is disturbing that the provisions of S.3043 would introduce requirements for specific individuals to sit upon the SPA supervisory board or prescribe a method for the selection of their representatives. It has been difficult for the Governors to have SPA supervisory boards that (1) contain the most qualified individuals, (2) meet all statutory and guideline requirements for representation and balance, and (3) are of a reasonable and manageable size where all those participating may have a positive voice in deliberations. Even with these difficulties, the court activity (judicial, prosecutorial and defense) comprise 21% of current SPA board membership. This compares with 20% for police, 8% for corrections and 7% for juvenile justice. This is also so in spite of constitutional problems preempting judicial participation on such boards in some States. We recommend that no additional requirements for SPA board representation be placed in the statute.

In encouraging greater planning capabilities for the courts, SPAs have continually endorsed a permissive environment for the development of Judicial Planning Councils where the interest of the courts in such Councils exists or can be generated. However, the provisions of S.3043 would require the JPC to replicate all of the administrative and management functions of an SPA, which raises questions of duplication of effort and soaring administrative costs. As is, the SPAs are having difficulty financing all State and local functions inherent to operating the program (e.g. planning, monitoring, evaluating, technical assistance, accounting, grants management, etc.) and all those functions ancillary but required by guideline or statute (e.g. civil rights compliance, environmental protection, relocation assistance, historic site preservation, etc.) from available Part B resources. This bill would require the duplication of all these functions in the JPC and also require their financing from Part B funds. The National Conference believes the program's overhead should be held to the minimum necessary to meet the program's requirements *and no more*.

The National Conference opposes Section 9 (3) of the bill. No change in the existing language of Section 303(b) is warranted. The proposed language still does not make clear whether there are one or two objectives being advocated for the program: crime reduction and/or improving and strengthening criminal justice. The National Conference objects to the Administration second-guessing what the States, through their own body of policy experts, feels will make a significant and effective contribution. State and local people are in a better position to assess the local situation than is LEAA. The proposed language tends to destroy the heretofore existing State and local decision making.

The National Conference opposes the recommended changes in Sections 15 and 17 of the bill. These are all designed to establish increased federal control over State and local law enforcement and criminal justice entities and are destructive of the block grant concept, as previously mentioned in our comments on the proposed language pertaining to increased federal "direction," "leadership" and "guidance."

The foregoing summarizes the National Conference's major concerns with S.3043. As is apparent we are basically opposed to most of the provisions of S.3043. We will be providing additional specific objections to other substantive passages in a letter next week to assist the Committee in its future deliberations.

The National Conference is grateful for this opportunity to testify on S.3043 and stands ready to respond to further inquiry by this Subcommittee or its staff.

TESTIMONY OF ANTHONY P. TRAVISONO, EXECUTIVE DIRECTOR,
AMERICAN CORRECTIONAL ASSOCIATION

To the Honorable Chairman and Committee Members: The American Correctional Association is pleased to have been asked to present testimony regarding the efforts and continuation of the Law Enforcement Assistance Administration. We hope the information will assist you in your deliberations. Our organization represents approximately 10,000 individual correctional professionals throughout the United States and Canada as well as 38 affiliate organizations whose sole function is the improvement of correctional programs and practices.

Modern day correctional experts have advocated the development of a balanced correctional approach for both the protection of the public and the reintegration of the offender as a productive member of the community. These are worthy objectives but not easily obtainable.

The American Correctional Association advocates that prisons and jails should only be used for those who exhibit violent tendencies and need to be separated from the public for some period of time. Community based programs that tend to divert persons from prisons such as probation, parole, halfway houses, minimum security programs, and other supervised residential programs such as work release, group homes, crisis centers and self help programs should be reserved for those offenders who did not resort to violence in their crimes or for those whose violent tendencies have been reduced to a point where they are no longer a threat.

In order for us to have this type of balance, we all know that the activities of every element of the criminal justice continuum must be carefully orchestrated. *Our greatest hope in recent years for this type of coordination is through the involvement and leadership of a strong national agency such as appears to be developing in the LEAA.*

The origins of LEAA are well known and need not be dwelt upon. We must acknowledge that it grew from the frustration of a rising crime rate, the seemingly unaffected apathetic attitude of the public and the call to action by the late President Johnson's "war on crime." This agency was needed in 1969 and it is still needed, helpful and necessary now and in the future.

The LEAA's meteoric budget rise from \$63 million in 1969 to over \$888 million in 1975 suggests that we should be solving the problem of crime. This has not been the case and we contend it will not be the case until a balance of criminal justice programs, particularly in corrections begins to be struck.

In the beginning the LEAA did not respond to the needs of corrections. The first LEAA Act of 1968 clearly gave primary attention to the law enforcement. Correctional officials were disappointed with what appeared to be a one sided approach. Through the good work of Congress, Part B funds for correctional programs were established in 1971. Since 1971 over one billion dollars in block, discretionary and technical assistance funds have been committed to juvenile and adult correctional programs. And while this may seem to be a great deal of money, it is still a relatively small investment when compared to other federal expenditures. Correctional reform is the specific mandate of Part B and like many other major national efforts, the resulting impact of such broadly based activities require a great deal of time before they become measurable.

LEAA has also made available to the field of corrections several grants which have begun to fulfill the mandate of technical assistance to all facets of corrections. These grants are extremely important and hopefully will be continued. The National Clearinghouse for Criminal Justice Planning and Architecture, although serving the entire field of criminal justice, has played an important role in correctional master planning and has promoted the concept of planning more than any other group. Grants to our Association, to the National Council on Crime and Delinquency, the University of Georgia and the American Justice Institute for national technical assistance have also been of great value to the field which is constantly searching for better techniques to do a difficult job.

The LEAA has also made a grant to our Association to enable us to begin a voluntary accreditation program for all agencies in the correctional continuum. The Accreditation Commission will follow the concept of standards which were developed in 1973 by the National Commission on Criminal Justice Standards and Goals. *Without the LEAA leadership, these standards would not have been developed very easily.*

Through the Accreditation process, for the very first time, correctional agencies will be able to match their performance against established nationally approved standards which are realistic and at the same time forward looking and progressive. *Without LEAA, this effort, a goal of the American Correctional Association for over 100 years, would not have taken place.* We hope to award our first accreditation certificate by August, 1976.

LEAA has also tried to assess the field of corrections in order to find out where we were and where we need to move forward. Several grants were made which would enable the LEAA to understand the field. Major grants have been made to:

- (1) Assess juvenile corrections.
- (2) Examine and revitalize prison industries.
- (3) Study total manpower needs.
- (4) Establish national standards and goals.
- (5) Develop medical services for jails and medical programs for prisons.
- (6) Survey correctional education.
- (7) Conduct seminars on correctional legal services.
- (8) Conduct correctional economic surveys and studies.

Further, the monies made available through the LEEP system have only recently been taken advantage of by correctional professionals.

This is evidenced by the January 1975 LEAA Statistical Profile of the Areas of Concentration of LEEP Participants, which reflect that 69 percent of the participants are pursuing police studies, while only 10 percent are engaged in correctional subjects.

This comparative lag is due in large measure to the complex nature of correctional curricula, and the time required by the nations colleges and universities for their development.

LEEP is an essential element in the LEAA program, and of inestimable value to correctional professionals.

Without the LEAA and the Congressional mandate which it pursues, corrections would be much worse off than it is.

In the early 1970's there was a tremendous effort to halt the construction of prisons, jails or training schools. The national strategy was to utilize existing institutions, and to develop new alternatives which cost no more, debilitate less, and protect the public better. The LEAA has followed this concept and has invested most of its resources (80%) in community programs.

Certainly it is difficult to argue with this approach except to repeat the fact that a balanced approach is exactly what the correctional professionals have always advocated. Institutions and community programs, not one or the other and even that one is better than the other. A balanced approach has not yet been obtained and a fierce debate continues to center around choices. It is probably why it appears we are in the critical position of playing "musical chairs" with convicted felons today. The caseloads in all of our corrections options are at an all time high. Our community based programs are overused, our prisons are filled beyond capacity and there appears to be no relief in sight. In a recent study of trends and population levels and specific information from the field, it has been predicted that during the next several years the total populations received by correctional agencies will devastate both our adult and juvenile correctional systems.

Adding to the correctional woes of our times are the recurring national themes of "law and order" and "domestic tranquility" which translate into a hard line approach embracing mandatory minimum sentences, harsher penalties and less use of parole.

The President of our American Correctional Association, Oliver J. Keller, in the September-October edition of the *American Journal of Correction* states that "1975 has been a bad year for corrections. The truth is that no major reform has ever taken place. At best we have experimental programs affecting only a handful of those sentenced by the courts. . . . *In relation to the crime problem, America's number one concern, LEAA funds are a drop in the bucket, and cannot be compared with federal appropriations for other military and welfare programs.*"

Our prisons are bulging now and it appears the added impact of this current "hard line approach" will continue to flood our institutions. Correctional administrators throughout the United States will be unable to check the spread of a new wave of prison violence. Mandatory sentencing is not in the best interest of a free society. Our system of government relies on justice and equity through the due process provisions of our constitution. Mandatory sentencing removes discretion from the judicial system. Mitigating circumstances, which a judge can and should consider, will be abolished. Mandatory sentencing leads to manipulation at every level of the criminal justice system and should be frowned upon even though it appears to have popular support.

The LEAA has been striving to bring some semblance of coordination to a very disjointed criminal justice process. It has also tried to enlighten a somewhat apathetic society as to the realities of criminal justice, and to encourage our citizens to bear their share of the responsibilities in eliminating all types of crime. LEAA's resources have been limited and the matching formula mandated by Congress is very difficult for states and local governments to understand, accept and provide. Increasingly, correctional agencies, from both private and public sectors are unable to meet the Part E 10% hard cash match requirement. The 1974 amendment which was put into effect to help state and local agencies be more responsive has not worked in the best interest of the congressional mandate. The situation can only become worse. State and local governments cannot meet this requirement easily. *We recommend that this provision of the act be struck.*

Corrections is not in a vacuum in our society. It has been placed in a position to represent the conscience of the American public. Very few correctional administrators are enamoured with what we currently identify as an up to date progressive program. All levels of government will necessarily need to insert a good deal of their precious resources into this area of concern. The LEAA will be needed to continue to spur the state and local agencies into much needed pro-active planning for the future rather than the past.

Planning and research are vital areas of any national effort and we cannot give up no matter how attractive the idea of saving scarce resources may be. Major studies in medical and scientific programs were accompanied through research both applied and theoretical. We need this privilege in the criminal

justice system. The rug cannot be pulled from beneath us at this stage of our development.

What we need in corrections today is the ability to be responsive to cultural trends and to be able to be kept up to date. We need good sound programs in all areas of corrections. The American Correctional Association seriously asks you to consider the "innovative program concept" versus the "operational subsidiary approach concept." We are not fully in support of the concept that we should strive to define or invent new approaches. There is need to consider the categorical funding approach to corrections for basic bread and butter programs. It is not too late to be helpful in rethinking this concept.

We need good community programs and we need good institutional programs. We need them both. The balance must be worked out without undue political rhetoric, without recrimination and without scapegoatism. Corrections is tough, it's dirty and it is a complex problem.

Attorney General Levi in his dedication address in Chicago of the new Federal Detention Center on October 15, 1975, said the following:

"If it is nonsense to say that the purpose of prison is only to rehabilitate, it is also nonsense to say that rehabilitation never occurs. Decent treatment itself is a kind of rehabilitation. It can reinforce decency in return just as much as substantial inhumane conditions of confinement can reinforce a negative effect. Especially with respect to the young, we simply cannot give up on the effort to bring those who have broken the law back into harmony with society."

We wish to paraphrase Attorney General Levi's remarks in the following manner.

If it is nonsense to say that LEAA has not solved the crime problem, it is also nonsense to say that the agency has not tried and has not made an impact in many areas. The LEAA has just begun. It is in its infancy. It needs nurturing and continued encouragement.

In closing, even though our present system is hard to explain, hard to change, and difficult to demonstrate its successes, it will continue to be needed.

The LEAA, a relatively new federal agency constrained by staff limitations, budget limitations and being charged with an unusual mandate to impact upon adult and juvenile crime, needs at least an additional five year authorization. Short term reauthorization is not in the best interest of a national strategy.

The American Correctional Association recommends the continuance of LEAA and concurs in the passage of Senate Bill #2212 with its current appropriation, even though it is a standstill budget.

AMERICAN BAR ASSOCIATION,
Chicago, Ill., March 5, 1976.

Re: Law Enforcement Assistance Administration.

Hon. JOHN L. McCLELLAN,
Chairman, Subcommittee on Criminal Laws and Procedures, Committee on the
Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: At the meeting of the House of Delegates of the American Bar Association held February 16-17, 1976, the attached resolution was adopted upon recommendation of the Judicial Administration Division.

This resolution is being transmitted for your information and whatever action you may deem appropriate. If hearings are scheduled on the subject of this resolution, we would appreciate your advising Herbert E. Hoffman, Director of the American Bar Association Governmental Relations Office, 1800 M Street, N.W., Washington, D.C. 20036. Telephone: (202) 331-2210.

Please do not hesitate to let us know if you need and further information or have any questions, or whether we can be of any assistance.

Sincerely yours,

HERBERT D. SLEDD.

Attachment.

REPORT WITH LEGISLATIVE RECOMMENDATION

The Judicial Administration Division recommends adoption of the following resolutions: 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 pressure on the state

judges is 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 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 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.

ADMINISTRATIVE OFFICE OF THE COURTS,
COURTS OF APPEAL BUILDING
Annapolis, Md., October 31, 1975.

HON. JOHN L. MCCLELLAN,
Chairman, Subcommittee on Criminal Laws and Procedure, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR MCCLELLAN: AS Maryland's State Court Administrator, I should like to add my voice to that of Marian Opala and the Conference of State Court Administrators in support of H.R. 8967, the State Courts Improvement Act of 1975.

It is quite clear that procedures under the Safe Streets Act have been structured so as to give the executive branch of state governments substantial control over programs and allocation of funding. The net result has been that state court systems have received much less in LEAA funds than have executive branch agencies such as police and corrections.

While the situation in Maryland may not be a critical as that in other states, the basic problem still exists here. It is accompanied by another problem which arises from time to time: an argument over whether a given proposal is criminal justice related or not. Under our Maryland court structure, it is generally impossible to split off purely criminal from other judicial administration matters. What improves court administration generally will tend to improve the flow of criminal cases through the system. However, some of our grant requests have been delayed or rejected because of a somewhat vague and poorly understood policy against use of LEAA money for matters not exclusively related to what the executive branch people think of as criminal justice matters. H.R. 8967 is designed to address these problems, and to do it in a way very helpful to the state courts. The bill embodies proposals of the National Conference

of Chief Justices, and was given the unanimous endorsement of the Conference of State Court Administrators at its annual meeting last August.

I hope your Subcommittee will be able to give full support to H.R. 8007.

Very truly yours,

WILLIAM H. ADKINS, II,
State Court Administrator.

RESOLUTION BY ALABAMA LAW ENFORCEMENT PLANNING AGENCY

Whereas, there have been proposals made to congressional committees that amendments be made to Public Law 93-83, known as the Crime Control Act of 1973, giving statutory priority of appropriations of funds to certain areas of the Criminal Justice System, namely, the judiciary, and

Whereas, the State Supervisory Board is opposed to such statutory priority for the judiciary or any other particular area of the Criminal Justice System, and

Whereas, it is the position of the State Supervisory Board that the allocation of funds should be based upon the original intent of Congress in the creative Act of LEAA in that such funds should be distributed with fairness and equality on a nondiscriminatory basis for use throughout the total Criminal Justice System based upon the needs and problems for each respective State, and

Whereas, it is the position of this State Supervisory Board, and was the intent of Congress in enacting the Crime Control Act, to decentralize the criminal justice efforts and "encourage States and units of local governments to develop and adopt comprehensive plans based upon their evaluation of State and local problems of law enforcement and criminal justice," and

Whereas, it was recognized by Congress that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively. Now, therefore, be it

Resolved, That Congress and its committees be advised of the position of the ALEPA State Supervisory Board, and that our Senators and Representatives from Alabama be so advised.

Dated, this the 25th day of November, 1975.

EARL C. MORGAN,
Chairman, ALEPA State Supervisory Board
District Attorney, Tenth Judicial Circuit.
JAMES T. STRICKLAND,
Chairman, ALEPA Courts Committee,
Circuit Judge, Thirteenth Judicial Circuit.
ROBERT G. "BO" DAVIS,
Director, Law Enforcement Planning Agency.

STATEMENT OF HON. MARK ANDREWS, A MEMBER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE STATE OF NORTH DAKOTA

Mr. Chairman and members of this distinguished Committee, it is with pleasure that I submit for your consideration my testimony on S. 2122, legislation extending the authority of LEAA through 1981.

The Chief Justice of the North Dakota Supreme Court, the Honorable Ralph J. Erickstad, has contacted me and requested that I bring to your attention the concerns of the Conference of Chief Justices as well as the Judiciary of the State of North Dakota.

Briefly, Judge Erickstad requests

(1) that LEAA money be distributed directly to the courts of the respective states and that same money be expended according to a comprehensive plan adopted by the highest courts of the respective states; and

(2) that the Judiciary be allowed increased representation on State Planning Boards in the respective states.

Let me say at the outset that since disbursement of funds and board representation is controlled for the most part at the local level, I am sure the Judiciary in some states feel their needs are being satisfactorily met. However, the Conference of State Chief Justices seem to feel this is a pervasive problem that needs correction, since they too have advocated the changes requested by Judge Erickstad. Furthermore, in checking with LEAA officials on October 17, 1975, they inform me that the Judiciary in North Dakota received about 14 that needs correction, since they too have advocated the changes requested by 12.1 per cent in FY 1975. (This percentage is based on local disbursements to

date and could be increased or decreased as not all monies for these years has been expended by local authorities.)

As you can see from these figures, it is difficult for the Judiciary to plan for the future. In addition, by adoption of these requested changes to S. 2212, it is my belief that the Judiciary would be more responsive, as they could annually plan for utilizing a certain percentage or set amount of available LEAA money. In the long run, better administration of our state court system has the effect of benefiting all of our country's citizens.

Mr. Chairman, I urge your careful consideration of these requested changes to S. 2212. Thank you for the opportunity to present my concerns, as well as those of the North Dakota Judiciary.

SUPREME COURT OF WYOMING,
Cheyenne, Wyo., October 30, 1975.

Re H.R. S967.

SENATE JUDICIARY COMMITTEE,
*Subcommittee on Criminal Laws and Procedures,
Dirksen Senate Office Building, Washington, D.C.*

GENTLEMEN: The Wyoming Supreme Court agrees in principle with the position taken by Marian P. Opala, Chairman, State-Federal Relations Committee, Conference of State Court Administrators, especially on the separation of powers of the three branches of government. As a result, we support H.R. S967.

Yours truly,

J. R. ARMSTRONG, *Court Coordinator.*

SUPREME COURT OF VERMONT,
St. Johnsbury, Vt., October 28, 1975.

Senator JOHN McCLELLAN,
*Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
Senate Office Building, Washington, D.C.*

DEAR SENATOR McCLELLAN: The Constitution of the State of Vermont designates the Supreme Court of this State as having administrative control of all of the courts of our State. I am writing to you in my capacity of Chief Justice to express, as strongly as I can, the support of my Court and myself for the Rodino Bill (H.R. S967).

The key issues have already been brought to the attention of your Committee. They are the disproportionate allocation of a minimum of funds to the judicial branch and the unfortunate political overtones caused by the failure of the present Law Enforcement Administration Act, as now implemented, to recognize the critical importance of the separation of powers doctrine.

Chief Justice Hefflin has already put these issues forcefully before you on behalf of our Conference of Chief Justices, assisted by Marian Opala of Oklahoma for the Conference of State Court Administrators. I fervently second all that they have said, to the point that any attempts to make my own presentation would be repetitious. I can only enjoin upon you that the problem they describe is real, and the needs of the state judiciaries urgent. The chief justices of this nation have a long history of responsibility, fairness, and frugality. The contemplated changes of H.R. S967 will give them an opportunity to further strengthen the judicial structures of their state, to the benefit of all of the people.

I am hopeful that this matter will have the favorable attention of the entire committee.

Very truly yours,

ALBERT W. BARNEY, *Chief Justice.*

COBB COUNTY BOARD OF COMMISSIONERS,
Marietta, Ga., October 30, 1975.

Senator JOHN L. McCLELLAN,
*Chairman, Subcommittee on Criminal Law and Procedures, Senate Committee on
the Judiciary, U.S. Senate, Washington, D.C.*

DEAR SIR: On October 8, 1975 Mr. Philip Elfstrom, Chairman of the Board of Kane County, Illinois and Chairman of the Criminal Justice and Public

Safety Steering Committee of the National Association of Counties, made a presentation to your subcommittee on S.2212, to renew the Crime Control Act of 1973 (PL93-83).

Please be advised that I agree completely with the comments and recommendations made by Mr. Elfstrom. The LEAA Program should be reauthorized with improvements to extend the formula block-grants through the states to counties and cities. The LEAA contribution to local criminal outlay has been of great assistance. A continuation of the block-grant program will, in my opinion, continue to produce a reduction of our crime rates and more efficient administration of justice.

A local input is required in the allocation of LEAA funds if the program is to continue to benefit the counties and cities that now provide the majority of cost for criminal justice programs.

Please preserve and extend the block-grant program.

Sincerely,

ERNEST W. BARRETT, *Chairman.*

STATE OF MAINE,
ADMINISTRATIVE OFFICE OF THE COURTS,
Auburn, Maine, November 3, 1975.

MEMBERS OF THE SUBCOMMITTEE ON
CRIMINAL LAWS AND PROCEDURES,
Committee on the Judiciary, U.S. Senate, Washington, D.C.

GENTLEMEN: On October 22, 1975, Mr. Marian Opala, Oklahoma's Administrative Director of the Courts met with you to discuss the importance of enacting into law HJR 8067. I should like to add my plea to that of Mr. Opala and request, earnestly, that you support separate and independent funding of federal financial assistance to the courts.

I am, perhaps, in a better position to know of the problems that the present method creates than any other member of the Conference of State Court Administrators, because my position as State Court Administrator for Maine is presently funded by LEAA. Schizophrenia is already setting in, regarding whether the executive or judicial branch of government owns my soul, and some of the programs needed by and planned for the Maine court system in the immediate future may suffer from the tug of war.

My royalties must lie with the judicial branch, if I am to be effective at all. Some persons in the Maine Criminal Justice Planning and Assistance Agency cannot understand this position, although they pay lip service to it. Pressure is beginning to surface to change the priorities for the court system that have been set by the Chief Justice and this Office. Pressures are being brought to bear to control how we effect programs that are planned.

We must be allowed to remain independent and to control our own destiny. Otherwise, there will be no administration for the courts of Maine but rather for LEAA. I cannot believe that this is the intent of the Congress. Therefore, I ask that you support Mr. Rodino's legislation.

Sincerely,

ELIZABETH D. BELSHAW, *State Court Administrator.*

SUPREME COURT OF VIRGINIA,
Richmond, Va., October 27, 1975.

Hon. JOHN L. MCCLELLAN,
*Chairman, Subcommittee on Criminal Laws and Procedures,
Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR MCCLELLAN: I understand that Mr. Chief Justice Heflin of Alabama and Mr. Marian P. Opala, Administrative Officer of the Courts in Oklahoma, appeared before your Committee yesterday concerning HJR 8067. This resolution was considered at a meeting of the Conference of State Court Administrators at Hot Springs, Virginia in August. In my opinion the resolution is worthy of support, and I hope you will give it your careful consideration.

Very sincerely yours,

HUBERT D. BENNETT, *Executive Secretary.*

THE STATE OF IDAHO,
ADMINISTRATIVE OFFICE OF THE COURTS,
October 29, 1975.

Re H.R. 8967.

Hon. JOHN L. McCLELLAN,
Subcommittee, Dirksen Senate Office Bldg.,
Washington, D.C.

DEAR SENATOR McCLELLAN: This is to advise you of my support for HR 8967, concerning court funding and LEAA. The present system of funding for courts through LEAA is not working. First, the courts are not obtaining adequate funds to carry out the improvement programs which are necessary to meet increasing caseloads and technological advances. For example, the Idaho courts have received as little as 1.7% of the state block grant LEAA moneys (1971), and while things have improved, the courts are now receiving only 7% of block grant funds.

More important, the methods by which LEAA moneys are granted to the courts seriously infringe on court prerogatives as a separate branch of government. Attempts are made to plan outside of the courts and for the courts, rather than recognizing that any independent management entity must do its own planning to be successful. LEAA priorities are superimposed on court priorities, with the result being that important court projects might never be funded.

There certainly have been some helpful projects funded through LEAA affecting the courts, and it has been useful to have an entity outside of the courts proposing some new ideas. By and large, however, the present system of funding courts through LEAA has had some unfortunate consequences, and I feel it is time to change that system.

Thank you for your consideration.

Very truly yours,

CARL F. BIANCHI.

OFFICE OF THE GOVERNOR,
Atlanta, Ga., October 1, 1975.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: I am writing to urge you to support the reenactment of the Law Enforcement Assistance Administration legislation in its current block grant form.

The LEAA block grant concept has been a major improvement in the federal domestic grant-in-aid process. It has meant decision making on criminal justice policies and expenditures has remained at the level of government vested with responsibility for it by the Constitution, namely the State. The concept of statewide planning and control allows for greater local and citizen participation in the LEAA program than would be possible under a categorical program.

The Crime Control Act already contains several grants which ensure that large cities receive their equitable share of LEAA funds. In my opinion, to provide direct federal to local LEAA funding for cities would subvert the entire block grant program which originally evolved out of dissatisfaction with direct federal categorical grants to local governments. The coordination and planning functions currently performed by the Criminal Justice State Planning Agencies would be rendered almost meaningless if big cities were exempted from their purview.

Therefore, I strongly urge that the Crime Control Act of 1973 be reenacted in its present block grant form.

Sincerely,

GEORGE BUSBEE.

SUPREME COURT,
Phoenix, Ariz., October 30, 1975.

Re H.R. 8967.

Senator JOHN McCLELLAN,
Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures
Senate Office Building, Washington, D.C.

DEAR SENATOR McCLELLAN: On behalf of myself and the Supreme Court of Arizona, may I announce our support of the Rodino Bill, H.R. 8967. I request that this statement of support be made a part of the record.

As the Irving Commission stated: "Concern about erosion of the independent and equal status of the judiciary as an equal branch of Government under the present LEAA administrative structure is reaching crisis proportions."

We have found that people outside of the judicial system are unable to understand the problems of the judiciary and that this lack of understanding is accompanied by an antagonism, in many instances, to the judicial system.

Your support of the Rodino Bill will be most appreciated.

With kindest personal regards,

Very truly yours,

JAMES DUKE CAMERON.

OFFICE OF THE GOVERNOR,
Frankfort, Ky., September 25, 1975.

Hon. EDWARD H. LEVI,
Attorney General, Department of Justice,
Washington, D.C.

DEAR GENERAL LEVI: I write to express my concern, adding to that expressed by other governors, about the LEAA regulations relating to Criminal Justice Information Systems as published in the Federal Register, May 20, 1975. Undoubtedly, by now the National Governors' Conference has informed you of the discussion and comments at its most recent meeting. Also, according to copies of letters received in Frankfort, a number of governors have written you citing objections, both general and specific, together with their reasons.

I have very serious objections to the regulations after reviewing them with my staff and a committee studying state computer problems. Some of my major objections are:

1. *Control is the real issue. There is unnecessary LEAA dictation of state management policies concerning people and resources involved with criminal history information.*

The LEAA has worked with appointive law enforcement officials in the states but apparently has largely ignored the interests and concerns of the elected officials, governors and legislators who are directly responsible to the people for establishing and executing the laws.

I do not object, nor do I know of any governor who objects, to the federal government establishing strong standards for state participation in criminal justice information systems. I do object to the FBI-LEAA dictating *how* I should attempt to guarantee privacy for the system in Kentucky, and as at least one other governor put it, I doubt the wisdom of establishing the FBI as the sole authority over security and privacy of criminal history information.

After all, where does the information come from? It comes mainly from the states; it is to be used by all levels of government; and it will be paid for by taxpayers in the states.

If these regulations stand, it means the FBI-LEAA has effective control over law enforcement policy in a state—not the governor, legislature or local elected officials. This is in apparent conflict with the President's views.

In a telegram read at the Session of State and Local Officials for the Seminar on Privacy, December 16, 1974, at the Mayflower Hotel, Washington, the President said in part:

"... In March of this year, as Vice-President, I addressed the governors at their National Conference, and I told them of my commitment to the establishment of privacy safeguards. I also said that 'Preservation of the right of privacy is not merely a federal problem . . . when government must intervene in the lives of people, it is the state and local government which is usually in the best position to judge its limits.' I reaffirm my commitment to the pursuit of privacy safeguards, and my belief in the vitality of new federalism—in the strength of the partnership of federal, state and local government. . . ."

2. *The requirement for dedication of computer equipment for a single purpose, denies a state the right to determine whether to meet the privacy standards by a shared or single purpose system—denies a state managerial choice.*

A dedicated system will not guarantee confidentiality and will not prevent unauthorized access to information. A "law enforcement" employee can misuse a system the same as any other governmental employee.

A dedicated system does guarantee unnecessary additional costs to participating states and local governments. (LEAA funds apparently do not cover costs for a dedicated system.) Studies in other states indicate their costs will be substantial, especially because a non-dedicated back-up system cannot be

used. In the case of Kentucky, the added cost would also be substantial and a new facility would have to be built. It has also come to my attention that the LEAA Administration has written some state officials claiming that mini-computers can do the job, thus cutting state (and local) costs. We have been unable to substantiate this claim.

The LEAA seems to ignore the fact that the computer industry has developed technology to provide extremely high levels of security on either a shared or dedicated computer system. Indeed, a dedicated computer system provides only a false sense of security.

3. *The precedent of a dedicated computer system presents a serious potential budget and management problem.*

The U.S. Department of Justice is but one federal agency concerned with law enforcement and confidentiality statutes. In principle, other federal agencies involved may have as much or more justification for dedicated computers and personnel. Where would it end and what cost to the state?

4. *States are encouraged with some initial funding to embark on massive federal-state-local systems and programs with potential costs unknown by Congress, State Legislatures, Governors, or local policy makers.*

There is a provisional threat of withdrawal of funds and a threat of large fines, if regulations are violated. Ironically, the impact of the sanctions would be typically on officials who had no part in directly developing the regulations.

5. *The LEAA apparently failed to secure an OMB inflationary impact statement as required by Presidential Order. In view of continued inflation and an economy struggling to come out of recession, an economic impact analysis is a high priority.*

In conclusion, the Governor is the principal focus point for management and control within his state. In the area of crime control, which is a national problem, he recognizes the need for federal guidelines and standards, but he cannot exercise his responsibility effectively if there is coercion, threat, or dictatorial action by the federal agencies concerned. Therefore, I urge you to consider the full implications of the LEAA regulations and to modify them so that states may respond to them cooperatively.

Sincerely,

JULIAN M. CARROLL.

SUPREME COURT OF NEW MEXICO,
ADMINISTRATIVE OFFICE OF THE COURTS,
Santa Fe, N. Mex., October 28, 1975.

Hon. JOHN L. McCLELLAN,
Chairman, Senate Judiciary Subcommittee on Criminal Justice and Procedures,
Senate Office Building, Washington, D.C.

DEAR SENATOR McCLELLAN: I have this date reviewed Mr. Chief Justice Howell Heflin's address before the Subcommittee on Criminal Laws and Procedures, Senate Committee on the Judiciary, on October 22, 1975. In addition, I have further reviewed this date a similar address made by Mr. Marian P. Opala, Administrative Director of the Courts for Oklahoma.

Please be advised, as Director of the Administrative Office of the New Mexico Courts, I stand in full support as expressed in HJR 8967 earlier introduced by the Honorable Peter Rodino.

Respectfully submitted,

LARRY D. COUGHENOUR, Director.

OFFICE OF THE MAYOR,
Wailuku, Maui, Hawaii, November 10, 1975.

Re S. 2212: To Renew the Crime Control Act of 1973 (PL 93-83).

Hon. JOHN L. McCLELLAN,
Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
U.S. Senate, Washington, D.C.

DEAR SENATOR McCLELLAN: I am writing to ask your support for the reauthorization of the Law Enforcement Assistance Administration (LEAA) block grant program of assistance to state and local governments.

Though the assistance of LEAA financing, the County of Maui has been able to institute and implement a variety of programs to meet unique criminal justice needs in our jurisdiction. As you are aware, criminal justice is one

service in local government budgets almost entirely financed by local revenues. Financial assistance from other sources is in reality nonexistent. State financial assistance is provided to other local government functions, but without the federal assistance under the LEAA legislation, we cannot expect to improve our criminal justice system or programs.

We feel that with this vital federal contribution to our local government, we can continue many of our programs which were previously initiated with LEAA assistance and we can also seek new approaches to continuing areas of need within the administration of criminal justice.

Your consideration in this matter is greatly appreciated.

Sincerely,

ELMER F. CRAVALHO,
Mayor, County of Maui.

U.S. SENATE,
Washington, D.C., March 8, 1976.

HON. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee,
Dirksen Building, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is the correspondence I received from Chief Roy E. Kelch and Professor Harry E. Allen in support of the Law Enforcement Education Program. I would appreciate the inclusion of their views in the Committee's consideration of any related legislation.

Best wishes.

Sincerely,

ROBERT TAFT, JR.,
U.S. Senator.

Enclosures.

OHIO STATE UNIVERSITY CRIME CENTER,
Columbus, Ohio, February 24, 1976.

SENATOR ROBERT TAFT, JR.,
U.S. Senate,
Washington D.C.

Urge your continuing support of law enforcement education program, U.S. Department of Justice, and retention of this highly successful and needed higher education program for criminal justice personnel in Ohio and U.S.

HARRY E. ALLEN,
Professor and Director.

POLICE DEPARTMENT,
Logan, Ohio, February 6, 1976.

MR. ROBERT TAFT, JR.,
Senator,
U.S. Senate Building,
Washington, D.C.

DEAR SENATOR TAFT: Enclosed you will find a copy of a letter which I have sent to the President to show my concern about the LEEP program for the education of policemen.

It is my opinion, for what it is worth, that the law enforcement assistance act needs a hard-headed police officer to be placed in charge. I feel that the criticism the program is receiving at the present, because the crime picture has not grown any better, is primarily due to the fact that a truly professional police management official has never headed the program. This program should be providing education and sophisticated system along with necessary hardware for the law enforcement officer to perform his task. To date, we have asked a general practitioner to perform brain surgery.

Now I see that once again a great effort has been made to do away with the LEEP program. This program of education for police is the only one that has any promise, whatsoever, of being beneficial to the general public. It has received less money than any other program under LEAA funding yet more and more young police officers yearn for this chance to become truly professional in their field. Most police officers taking advantage of this funding are working a full 8 hour shift for their department and attend college 4 to 6 hours additional each day. Many driving considerable distances to receive this education.

I am greatly concerned about the future of law enforcement. I am sure of one thing, if this program is done away with, it will be one giant step backwards in providing true qualified law enforcement for the people of our country.

Truly your,

Roy E. KELCH, *Chief of Police.*

Enclosure.

STATEMENT BY WAYNE HOPKINS* FOR THE CHAMBER OF COMMERCE OF THE UNITED STATES

The Chamber of Commerce of the United States appreciates the opportunity to express its support for S.2212, which would extend for five years the authority of the Law Enforcement Assistance Administration (LEAA).

The National Chamber is greatly concerned about crime and its insidious grip on every citizen. No one is free from it—neither rich nor poor. Crime strikes people in their homes and on the streets. It affects them as consumers and/or business people. The rise in criminal activity lowers the moral tone of our society and places a severe economic strain upon our country.

When the Law Enforcement Assistance Administration was created in 1968 the Chamber strongly backed and testified in favor of the block grant approach in funding the new program. We were pleased that Congress enacted the block grant concept as a fundamental element of the nation's first massive federal assistance program from criminal justice. We continue to support this approach, for decisions on criminal justice should be made at the grassroots level.

We have observed the general operation of the block grant system as it has been used by LEAA compared to the grant-in-aid projects which are so evident in many other government agencies. The operation of the block grant system as used by the LEAA has been preferable to and more productive than most other programs used by federal agencies. We are convinced now, even more than when LEAA was created, that the block grant approach is essential in a federal assistance program for criminal justice which reaches the grassroots.

Can the federal government determine, from Washington, what are Little Rock's most pressing problem and what the statewide priorities in Arkansas should be? Definitely not. Can the federal government decide, as wisely as planners in Nebraska, how and where to make major improvements in criminal justice in that state? Definitely not. If the LEAA effort were dominated by Washington and the state and local governments were puppets in the program, we would not be much better off than we were in 1968. We well remember the criminal justice planning void in the 1960's. In the few localities that tried to make improvements, there was virtually no coordination. Those jurisdictions did their own thing. And they were not very successful about it.

Today, as a result of the block grant concept, we see a broadbased, concerted approach to criminal justice improvement spearheaded by LEAA. In fact, it is a quiet revolution. The business community is involved. So is the public. And so are officials of police agencies, courts, and correctional systems, and experts in juvenile justice. All are now working together against what many Americans believe is the nation's Number One problem.

The National Chamber is not an expert in the affairs of this agency, nor is it knowledgeable about its detailed administrative operation. We do recognize that any government agency, or for that matter any private organization the size of LEAA, can expect occasional problems.

We compliment LEAA on its record of attempting to rectify mistakes and errors when they are called to its attention by hearings of this kind or by individuals. We were concerned at a hearing a few years ago on learning that the auditing process was not being thoroughly carried out because of lack of manpower. This problem, from what we understand, has been corrected.

Chamber of Commerce leaders throughout the country are complimentary to LEAA in their comments to us. Specially commended was the improvement of police department productivity made possible through block grant money from LEAA. Many have cited the superior performance of trained personnel

* Senior Associate, Crime Prevention and Control, Chamber of Commerce of the United States.

made possible by new equipment provided through LEAA money. Others stress the volume of improved community cooperation and citizen involvement in crime prevention. The LEAA has sponsored community relations programs for police personnel in all parts of the country.

Having observed the work of federal agencies, the National Chamber does not expect overnight results from LEAA. It was set up seven years ago, but has been in full operation for only about six years. The LEAA has begun to generate public interest and it has made great strides in involving citizens and the business community in anti-crime activities.

We were pleased to learn that \$300,000 has been earmarked to launch a new attack this year on crimes against business. Problems of retailers, including arson, bad checks, employee pilferage, and fencing will be included in the program.

LEAA also is sponsoring the work of a special task force that is developing standards and goals for the private security industry, such as the training and qualifications of security guards. The Chamber is pleased to participate, just as we participated in the earlier landmark work of the National Commission on Criminal Justice Standards and Goals—the commission that gave our country a wealth of specifics for improving criminal justice and developing community crime prevention programs.

Over the years the Chamber has contributed to numerous projects involving the LEAA.

The Chamber prepared the *Handbook on White Collar Crime* to give the business and professional community a positive, self-help approach to the range of crimes that we term "white collar"—bankruptcy fraud, bribes, consumer fraud, credit card schemes, embezzlement, fencing, securities theft, and all the rest. The book was made available to our members. Later, permission was given to the National District Attorneys Association to reprint the booklet. Thanks to funds supplied to the National District Attorneys Association by the LEAA, 400,000 copies were printed and distributed to prosecutors in every county of this nation. The prosecutors distributed copies to businessmen and citizens in their jurisdictions.

The National Chamber also prepared a pocket-size handbook, "Marshaling Citizen Power to Modernize Corrections," to inform businessmen and other people how they can help improve the correctional system. The American Correctional Association requested permission to reprint the pamphlet and ACA, with the financial assistance of LEAA, distributed two million copies to business and other organizations and their employees and members so that people at the grassroots level would be familiar with what was involved in helping to solve many correctional problems. The book was praised by correctional professionals, and 18 different state legislatures cited it as an example of constructive leadership in the field of corrections.

This kind of response—citizen action, public education—may not seem terribly dramatic. It does not make sensational headlines. But we believe such activities are essential for an effective nationwide effort to reduce crime.

Two additional elements of that nationwide effort deserve special comment. They are the Law Enforcement Education Program—known as LEEP—and the Criminal Justice Reference Service.

Through LEEP, law enforcement personnel across the nation are receiving college degrees and higher education. I am told that more than a quarter of a million students in more than 1,000 colleges and universities have received LEEP grants or loans from LEAA. The result is increased professionalism among law enforcement personnel leading to improved effectiveness and efficiency.

Through the Reference Service, LEAA can provide a quick response to inquiries and is able to keep criminal justice practitioners informed of current developments in their areas of interest. In addition, the Reference Service functions as a clearinghouse for information on such topics as juvenile justice, the effects of the energy shortage on the criminal justice systems and international criminal justice research. It is an effective means of sharing information on new ideas and what works and what doesn't in the criminal justice field.

In sum, we recognize that an organization the size of LEAA will make mistakes, but we are gratified that these mistakes are overcome. America has a tremendous stake in the success of its program to improve law enforcement and criminal justice. The general thrust as carried out by LEAA is worthy of National Chamber support.

STATE OF MAINE,
 SUPREME JUDICIAL COURT,
 Auburn, Maine, October 15, 1975.

Senator JOHN McCLELLAN,
 Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
 Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR McCLELLAN: I am writing to express my interest in a measure currently before the Congress to amend the Omnibus Crime Control and Safe Streets Act of 1968. In reviewing the objectives of the proposed legislation, I cannot help but come to the conclusion that I can support this in its entirety. Since the inception of the L.E.A.A. in 1968, the Courts have played the role of a stepchild to law enforcement and correction agencies.

While we have no reason to object to the participation of the other agencies, the Courts do feel very strongly, and I believe are nearly unanimous, in the proposition that funding of programs within the Court structure should be done under the direction and control of the people who are actually involved in the day to day operation of the Court system.

We are all very much aware of the essential independence of the Judiciary and its role as a co-equal branch of government. In addition to this realization, we strongly feel that implementation and direction of Court programs, whether they be new or a continuation of old programs, should be within the basic guidance of the judicial branch. It would be difficult for me in any type of statement to more adequately set forth the position of the Courts in our state than has been done within the four corners of the Bill itself.

Accordingly, I would be grateful if you would accept this letter, along with those received from other Chief Justices and Court personnel, as an endorsement of the Bill now being considered by your committee.

I would also be grateful if you would extend me the courtesy of incorporating this letter, or excerpts from it, in the official Congressional record.

Very truly yours,

ARMAND A. DUFRESNE, JR.

COURT OF COMMON PLEAS,
 Pittsburgh, Pa., December 1, 1975.

Re S. 2212.

Hon. JOHN L. McCLELLAN,
 Chairman, Subcommittee on Criminal Laws and Procedures, 9241 Russell
 Building, Washington, D.C.

DEAR SENATOR McCLELLAN: I have been advised that your Committee is considering the bill, S. 2212, to amend the act governing operations of the Law Enforcement Assistance Administration (LEAA).

As a former member of the House of Representatives and having spent 37 years on the bench of a major trial court, the last 13 as president judge, I am aware of the responsibility you and your sub-committee have in performing this task.

Therefore, I do not lightly request that your Committee amend the current bill to provide for a process for the providing of LEAA funds to improve the Court systems of the various states *without* the agreement, approval, and concurrence of local governing bodies, as is now required under the present Crime Control Act.

The LEAA program, created and funded by the original Crime Control Act, is failing in its purpose. Too little of the funding is reaching the nation's court system.

A recent study, made at the behest of LEAA, concluded that much too small a percentage of LEAA funds is being funneled to the judiciary system. That also is the conclusion of other responsible bodies, such as the National Center for State Courts, the latter representing 20 national judicial and law-related organizations.

The judicial branch of government can be, and frequently is, stymied in its efforts to make improvements in the administration of justice with LEAA grants, because of the reluctance of local taxing bodies to co-sign applications for action grant funds. This procedure, now required by LEAA, gives the local legislative and executive branches of government veto power over the operations of another branch of government, namely the judicial branch.

This is undesirable in theory and improper in practice.

Certainly there is no doubt that the judicial system should be required to justify the need and be accountable for the expenditure of grant funds.

I suggest, however, that the low percentage of grant funds being utilized by the judiciary is largely due to the reason cited above—that "units of general local government" are not responsive to the needs of the judicial system, preferring to spend LEAA funds on pet projects.

May I suggest that your Committee amend the current bill to provide a minimum of 25 percent of LEAA funds on direct application by the Court without joinder by local government.

I assure you that you will serve the people of this nation well if you will provide for the means for the courts to operate more efficiently and effectively.

With kindest regards, I am,

Sincerely,

HENRY ELLENBOGEN.

STATE OF NORTH DAKOTA,
SUPREME COURT,
Bismarck, N. Dak., October 8, 1975.

Re S. 2212, the Administration's Bill for extending LEAA's authority through 1981 and H.R. 8967, the State Court's Improvement Act, amending the Omnibus Crime Control and Safe Street's Act of 1968.

Hon. JOHN McCLELLAN,
*Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR McCLELLAN: Inasmuch as S. 2212 does not deal with the structural reforms sought on behalf of the courts by the Conference of Chief Justices in H.R. 8967, The State Court's Improvement Act, sponsored by Congressman Rodino, I am writing to you to urge you to consider including in S. 2212 at least the key provisions of H.R. 8967.

A key provision of the Rodino bill is that a part of LEAA money would be distributed directly to the courts of the respective states to be expended according to a comprehensive plan adopted by the highest courts of the respective states.

Another feature of the Rodino bill is that the courts would have a representation on the State Planning Board equal to the other two branches of state government. At the present time, our judiciary is greatly underrepresented on the State Planning Agency (the Combined Law Enforcement Council).

It is my personal view that the passage of H.R. 8967 will make it possible for the highest appellate court of each state to better administer the state court system and, of course, better administration of our court system will benefit all of the people of each of the states of our United States.

The proposed amendment to the Omnibus Crime Control and Safe Street's Act of 1968 contained in H.R. 8967 recognizes the judiciary of each of the states as a co-equal branch of government, which is consistent with the separation of powers principle built into most of the state constitutions as well as into the United States Constitution.

If you have any questions that you would like to ask me concerning the effect of H.R. 8967 upon our state if enacted into law, I would be happy to try to answer them.

Sincerely yours,

RALPH J. ERICKSTAD, *Chief Justice.*

OFFICE OF THE MAYOR,
Honolulu, Hawaii, October 29, 1975.

Hon. JOHN L. McCLELLAN,
*Chairman, Senate Subcommittee on Criminal Laws and Procedures, Dirksen
Senate Office Building, Washington, D.C.*

DEAR SENATOR McCLELLAN: I am writing to urge your Subcommittee's favorable consideration of proposed legislative changes which would enable local jurisdictions to receive direct grants from the Law Enforcement Assistance Administration.

It is my strong belief that if we hope to effect a significant reduction in crime within our community, greater flexibility must be afforded county and municipal governments to establish priorities and plan for the allocation of available resources.

Despite our efforts to adhere to State policies and procedures, we have experienced great difficulty in obtaining State Planning Agency approval of proposed County projects. The City and County of Honolulu includes 82 per cent of Hawaii's population, and accounts for 90 per cent of all serious crime and 85 per cent of all crime within the State. Both the prosecutorial and police functions are under the jurisdiction of the City and County Government, and we bear the major responsibility for controlling crime in Honolulu. This being the case, I feel that it is imperative that the City and County of Honolulu be given greater decision-making power to determine how available law enforcement funds are to be utilized in addressing the local crime problem of our community.

I encourage you and the members of your Subcommittee to consider the benefits of providing direct block grants to local jurisdictions, and urge your favorable support of proposed legislative changes advocating this position.

Sincerely,

FRANK F. FASI,
Mayor, City and County of Honolulu.

STATE OF DELAWARE,
ADMINISTRATIVE OFFICE OF THE COURTS,
Wilmington, Del., October 30, 1975.

Re HIR 8967 Authored by Representative Peter W. Rodino, Jr.

Senator JOHN L. McCLELLAN,
*Subcommittee, Dirksen Senate Office Building,
Washington, D.C.*

DEAR SENATOR McCLELLAN: I want the record to show that I, as a member of the Conference of State Court Administrators and as the State Court Administrator for the State of Delaware, support the position as expressed in HIR 8967, authored by Representative Peter W. Rodino, Jr., and urge your support towards its enactment into law.

I further request that you recognize that the present system of LEAA resource allocation makes the Judiciary uniquely vulnerable and that you accord the Judiciary the co-equal status we feel is constitutionally due as a separate but equal branch of the government.

Thank you for your anticipated support of HIR 8967.

Very truly yours,

JOHN R. FISHER.

JUDICIAL COUNCIL OF GEORGIA,
ADMINISTRATIVE OFFICE OF THE COURTS,
Atlanta, Ga., October 12, 1975.

Hon. JOHN L. McCLELLAN,
*Chairman, Subcommittee on Criminal Laws and Procedures, 2204 Dirksen Senate
Office Building, Washington, D.C.*

DEAR SENATOR McCLELLAN: The Judicial Council of Georgia has reviewed Senator Hruska's proposed amendment (S. 2212) the Omnibus Crime Control and Safe Streets Act of 1968. In this review, we found that the bill does not address the needs of the Judicial System as comprehensively as the "State Courts Improvement Act of 1975" (H.R. 8967), which has been introduced by Representative Rodino.

We have indicated our support for H.R. 8967 with suggested modification to include the state court administrative system which exists in Georgia and some other states. Enclosed you will find a copy of our correspondence to Mr. Rodino with our proposed amendment to the bill.

We appreciate your interest in State court systems and your consideration of H. R. 8967.

Sincerely,

KENNETH B. FOLLOWILL, *Chairman.*

Enclosure.

JUDICIAL COUNCIL OF GEORGIA,
ADMINISTRATIVE OFFICE OF THE COURTS,
Atlanta, Ga., October 3, 1975.

Hon. PETER W. RODINO,
*Chairman, House Judiciary Committee,
Rayburn House Office Building, Washington, D.C.*

DEAR MR. RODINO: The Judicial Council of Georgia has reviewed the "State Courts Improvement Act of 1975" (H. R. 8967), which you introduced to amend

the Omnibus Crime Control and Safe Streets Act of 1968. We concur in principle with this legislation. However, the bill must be amended if it is to be applicable to the structure of the judicial system in all of the States.

In Georgia, the administration of the Judicial system has been placed by law in the Judicial Council and Administrative Office of the Courts. Your legislation would mandate placement of this function in the Supreme Court of our State, thereby fragmenting our planning effort.

We have prepared a suggested amendment to the act. It would place the planning and grants function under judicial agencies or departments created by law for administration of State court systems in the absence of such an agency or department in the state court of last resort. We believe the amendment will provide more flexibility to your bill and make it more suitable to all of the State court systems.

We appreciate your consideration of this matter and will provide more information should you desire it.

Sincerely,

KENNETH B. FOLLOWILL.

Enclosure.

PROPOSED AMENDMENT TO H.R. 8967, 94TH CONG., 1ST SESS.

INTRODUCTION TO PROPOSED AMENDMENT

To leave the act in its present form would mandate placement of the planning and grants functions in the State court of last resort. Should another judicial agency exist for this purpose, it would fragment and duplicate the court improvement effort which could lead to conflict and to disruption of the process.

The amendment adds wording to recognize that some states have created judicial agencies or departments by law to administer their court systems. It makes the act more flexible in dealing with situations of this nature.

PROPOSED AMENDMENT

Section 476 (b) (13) which reads as follows:

"(13) such other purposes consistent with the objectives of this part, including such as also may be consistent with part C, as may be deemed appropriate by the State court of last resort or such other body as it shall designate or create pursuant to section 477 of this part,"

should be amended by inserting the words: "the judicial agency or department of the State charged by law with the administration of the State's court system, or should such judicial agency or department not exist, by",

Between the words "deemed appropriate by" and "the State Court", so that Section 476 (b) (13) shall read as follows:

"(13) such other purposes consistent with the objectives of this part, including such as also may be consistent with part C, as may be deemed appropriate by the judicial agency or department charged by law with the administration of the State's court system, or should such judicial agency or department not exist, by the State court of last resort or such other body as it shall designate or create pursuant to section 477 of this part."

Section 477 (a) and (b) which reads as follows:

"Sec. 477. Except as provided in section 478, a State desiring to receive a grant under this part for any fiscal year shall—

"(a) beginning with the fiscal year ending September 30, 1978, or such later time as may be determined by the Administration, have on file with the Administration a multiyear comprehensive plan for the improvement of the State court system developed in accordance with this part by the State court of last resort or such other body as it shall designate or create, and

"(b) incorporate its application for such grant, developed by the State court of last resort or such other body as it shall designate or create, in the comprehensive State plan submitted by the State planning agency to the Administration for that fiscal year in accordance with section 302 of this title. Such application shall conform to the purposes of this part and to the multi-year comprehensive plan for the improvement of the State court system as set out in subsection (a) of this section."

should be amended by inserting the words: "the judicial agency or department of the State charged by law with the administration of the State's court system, or should such judicial agency or department not exist, by",

Between the words "with this part by" and "the State court" in subsection (a) and the words "grant, developed by" and the State court "in subsection (b), so that Section 477 (a) and (b) shall read as follows:

"Sec. 477. Except as provided in section 478, a State desiring to receive a grant under this part for any fiscal year shall—

"(a) beginning with the fiscal year ending September 30, 1978, or such later time as may be determined by the Administration, have on file with the Administration a multiyear comprehensive plan for the improvement of the State court system developed in accordance with this part by the judicial agency or department of the State charged by law with administration of the State's court system, or should no such judicial agency or department not exist, by the State court of last resort or such other body as it shall designate or create, and

"(b) incorporate its application for such grant, developed by the judicial agency or department of the State charged by law with the administration of the State's court system, or should such judicial agency department not exist, by the State court of last resort or such other body as it shall designate or create, in the comprehensive State plan submitted by the State planning agency to the Administration for the fiscal year in accordance with section 302 of this title. Such application shall conform to the purposes of this part and to the multiyear comprehensive plan for the improvement of the State court system as set out in subsection (a) of this section."

Section 478 (3) which reads as follows:

"(3) provide for procedures under which plans and requests for financial assistance for all courts in the State may be submitted annually to the court of last resort or such other body as it shall designate or create for approval or disapproval in whole or in part;";

should be amended by inserting the words: "to the judicial agency or department of the State charged by law with administration of the State's court system, or should such judicial agency or department not exist,"

Between the words "submitted annually" and "to the court", so that Section 478 (3) would read as follows:

"(3) provide for procedures under which plans and requests for financial assistance for all courts in the State may be submitted annually to the judicial agency or department charged by law with administration of the State's court system, or should such judicial agency or department not exist, to the State court of last resort or such other body as it shall designate or create for approval or disapproval in whole or in part;";

Section 479 which reads as follows:

"Sec. 479. All requests for financial assistance from appellate and trial courts of general and limited or special jurisdiction and other applicants eligible under this part shall be received by the State court of last resort or such other body as it shall designate or create. The court of last resort or such other body shall review all requests for appropriateness and conformity with the purposes of this part, the findings and declared policy of Congress, the multiyear comprehensive plan for the improvement of the State court system, if on file with the Administration, and the application included in the State comprehensive plan under this part. The State court of last resort or such other body shall transmit requests approved by it along with comments to the State planning agency. The State planning agency shall make grants under this part or under part C as provided in section 478(9) for any request approved by the State court of last resort or such other body, provided that such approved request conforms with the State planning agency's fiscal accountability standards. Any approved request not acted upon by the State planning agency within ninety days of receipt from the court of last resort or such other body shall be deemed approved for the purposes of this title, and the State planning agency shall disburse the approved funds to the applicant in accordance with procedures established by the Administration."

should be amended by inserting the words: "The judicial agency or department of the State charged by law with administration of the State's court system, or should such judicial agency or department not exist."

Between the words "under this part shall be received by" and "the State court of last resort . . .", and immediately preceding the words "The court of last resort or such other body shall review all requests . . .", and immediately preceding the words "The State court of last resort or such other body shall transmit requests approved . . .", and between the words "for any request

approved by" and "the State court of last resort . . .", and between the words "ninety days of receipt from" and "the court of last resort . . .", so that Section 479 shall read as follows:

Sec. 479. All requests for financial assistance from appellate and trial courts of general and limited or special jurisdiction and other applicants eligible under this part shall be received by the judicial agency or department charged by law with administration of the State's court system, or should such judicial agency or department not exist, the court of last resort or such other body shall review all requests for appropriateness and conformity with the purposes of this part, the findings and declared policy of Congress, the multiyear comprehensive plan for the improvement of the State court system, if on file with the Administration, and the application included in the State comprehensive plan under this part. The judicial agency or department charged by law with administration of the State's court system, or should such agency not exist, the State court of last resort or such other body shall transmit requests approved by it along with comments to the State planning agency. The State planning agency shall make grants under this part or under part C as provided in section 478(9) for any request approved by the judicial agency or department of the State charged by law with administration of the State's court system, or should such agency or department not exist, the State court of last resort or such other body, provided that such approved request conforms with the State planning agency's fiscal accountability standards. Any approved request not acted upon by the State planning agency within ninety days of receipt from the judicial agency or department of the state charged by law with administration of the State's court system, or should such agency or department not exist, the court of last resort or such other body shall be deemed approved for the purposes of this title, and the State planning agency shall disburse the approved funds to the applicant in accordance with procedures established by the Administration."

Section 480 (e) (2) should be amended by inserting the words:

"The term 'judicial agency or department of the State charged by law with the administration of the State's court system' refers to Judicial Council, Administrative Offices of the Courts or other such named judicial agencies or departments which have been created by constitutional amendment or general legislation to study and recommend improvements in the State's court system and provide for administration of or administrative services to the State's court system."

Between "(p)" and "The term 'court of last resort', so that the section shall read as follows: (e) Section 601 of such Act is amended as follows:

(1) by deleting from subsection (a) thereof the words "courts having criminal jurisdiction" and substituting the words "courts as defined in subsection (p) of this section", and

(2) by inserting at the end thereof the following new subsection:

"(p) The term 'judicial agency or department of the State charged by law with the administration of the State's court system' refers to judicial councils, administrative offices of the courts or other such named judicial agencies or departments which have been created by constitutional amendment or general legislation to study and recommend improvements in the State's court system and provide for administration of or administrative services to the State's court system. The term 'court of last resort' shall mean that State court having the highest and final appellate authority of the State. In States having two such courts, court of last resort shall mean that State court having the highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rule-making authority. In other States having two courts with highest and final appellate authority, court of last resort shall mean that highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch. The term 'court' shall mean a tribunal recognized as a part of the judicial branch of a State or of its local government units having jurisdiction of matters which absorb resources which could otherwise be devoted to criminal matters."

Section 5 of the "ADMINISTRATIVE PROVISIONS" which reads as follows:

Sec. 5. For the fiscal year ending September 30, 1977, the Administration and State planning agencies are authorized and encouraged to make available to the State court of last resort or such other body as it shall designate or create a portion of Federal funds granted under part B or part C of the Omnibus Crime Control and Safe Streets Act of 1968 for the purposes set out in para-

graphs (1), (2), and (3) of subsection (b) of section 476 of the Omnibus Crime Control and Safe Streets Act of 1968, as set out in section 3(a) of this Act.

should be amended by inserting the words: "the judicial agency or department of the State charged by law with the administration of the State's court system, or should such judicial agency or department not exist",

Between the words "encouraged to make available to" and "the State court of last resort . . .", so that Section 5 reads as follows:

Sec. 5. For the fiscal year ending September 30, 1977, the Administration and State planning agencies are authorized and encouraged to make available to the judicial agency or department of the State charged by law with the administration of the State's court system, or should such judicial agency or department not exist, the State court of last resort or such other body as it shall designate or create a portion of Federal funds granted under part B or part C of the Omnibus Crime Control and Safe Streets Act of 1968 for the purposes set out in paragraphs (1), (2), and (3) of subsection (b) of section 476 of the Omnibus Crime Control and Safe Streets Act of 1968, as set out in section 3(a) of this Act.

Section 480 (b) which reads as follows:

(b) Section 203(a) of such Act is amended by adding immediately after the third sentence the following: "Not less than one-third of the members of such State planning agency shall be appointed from a list of nominees submitted by the chief justice or chief judge of the court of last resort of the State to the chief executive of the State, such list to contain at least three nominees for each position to be filled to satisfy this requirement.",

should be amended by inserting the words "the chairman of the policy making board or council of the judicial agency or department charged by law with the administration of the State's court system, or should such judicial agency or department not exist, by",

Between the words "nominees submitted by" and "the chief justice or judge . . .", so that Section 480 (b) will read as follows:

(b) Section 203 (a) of such Act is amended by adding immediately after the third sentence the following: "Not less than one-third of the members of such State planning agency shall be appointed from a list of nominees submitted by the chairman of the policy making board or council of the judicial agency or department charged by law with the administration of the State's court system, or should such judicial agency or department not exist, by the chief justice or chief judge of the court of last resort of the State to the chief executive of the State, such list to contain at least three nominees for each position to be filled to satisfy this requirement."

SUPREME COURT,
STATE OF TENNESSEE,
Nashville, Tenn., October 29, 1975.

Re: I.L.R. 8967. The Rodino Bill to amend the Omnibus Crime Control and Safe Streets Act of 1968.

To: Senate Judiciary Subcommittee on Criminal Laws and Procedure.

From: Supreme Court of Tennessee.

The Supreme Court of Tennessee supports the Rodino Bill.

Our trial court structure is among the most antiquated in the nation. In the metropolitan areas, three (3) separate courts, each with its own clerk and administrative personnel, handles civil, criminal and chancery matters. The court structure and judicial districts in the other ninety-one (91) counties defy description in a statement of acceptable length. In 1974 total filings exceeded total dispositions by more than seven thousand (7,000) cases. The most significant backlog is in criminal cases.

Our judicial system badly needs constitutional and legislative reform. Groups with vested interest in the status quo and much political influence have blocked reform in the judicial system for the past ten (10) years.

While continuing to push for legislative and constitutional reform this court is now using its inherent powers to alleviate the evils of significant imbalance in caseload among judicial districts and the annual accumulation of a backlog of cases.

We need substantial assistance in data gathering and planning to support both long range reform of our judicial system and our stop-gap efforts to provide an interim solution.

The statement of Honorable Howell Heflin to your committee on October 22, 1975, accurately portrays problems that are present and will continue to be present in Tennessee. All judges in this State are elected by the people, except the judges of the intermediate Court of Appeals, a situation unique in the fifty (50) states.

Against the background related here it must be obvious that the judicial department of government in Tennessee cannot enter a political arena controlled by the other two branches of government and battle for a fair share of LEAA funds.

The Supreme Court of Tennessee urges favorable action on the Rodino Bill by your subcommittee.

For the Court:

Wm. H. D. FONES,
Chief Justice.

SUPREME COURT OF MISSISSIPPI,
Jackson, Miss., October 17, 1975.

Hon. JOHN L. McCLELLAN,
*Chairman, Subcommittee on Criminal Laws and Procedures,
U.S. Senate, Washington, D.C.*

DEAR SENATOR: I wish to urge your support of the Rodino bill (H.R. 8907), which the Judges of this Court understand to be a needed improvement in the Law Enforcement Assistance Act.

It does not seem appropriate that the courts of the various states, being independent co-equal branches of the several state governments, should be dependent upon the Executive branch for the allocation of LEAA funds. It would seem much more appropriate and of more value to the courts if the sum that eventually reaches the courts would be made in block grants so that plans can be made accordingly.

With best wishes, I am
Very truly yours,

ROBERT G. GILLESPIE.

THE SUPREME COURT OF TEXAS,
Austin, Tex., October 10, 1975.

Hon. JOHN L. McCLELLAN,
*Senate Office Building,
Washington, D.C.*

DEAR SENATOR McCLELLAN: Since the inception of the Law Enforcement Assistance Agency in 1968, the vast majority of the block grant funds available to the states from L.E.A.A. has gone to police and corrections segments of the criminal justice system. By improving the efficiency of the police segment of the criminal justice system, our trial and appellate courts have witnessed a substantial increase in the number of criminal cases being filed, without a corresponding increase in courts or court personnel to properly dispose of this increased caseload. Because of lack of funding, the judicial segment of the criminal justice system has been unable to properly plan for this increased caseload and as a result the entire criminal justice system has suffered from the lack of proper coordination.

Recognizing this need, the National Conference of Chief Justices has adopted, on two separate occasions, a resolution recommending that a certain portion of L.E.A.A. funds available to the individual states be made more directly available to the judicial branch of state governments. This action was taken as a result of the experience in many states wherein the needs of the courts have been overlooked in the allocation of funds.

Mr. Rodino of the U. S. House of Representatives has introduced H.R. 8907 entitled, "State Courts Improvement Act of 1975." This bill embodies the recommendations of the National Conference of Chief Justices. The fundamental provisions of the bill are:

1. Strong state court systems are essential to the continued operation of our federal system and, as such, are deserving of federal support;
2. Federal funding should preserve the independence of the state judicial system and should encourage them to plan and execute improvements in their operations;
3. Federal agencies should work with and through the judicial branch of government where court improvement projects are concerned;

4. State courts should have adequate representation on state planning agencies that administer federal grant programs affecting the judicial branch of government;

5. A specific portion of L.E.A.A. funds made available to individual states should be allocated for state judicial system improvements to be administered by the judicial branch of the individual states.

Mr. Rodino's amendment to the L.E.A.A. Act would provide an opportunity for the development of significant improvement in the court system of our various states. Unless we meet the public demand for a more effective and efficient operation of our state court systems, we will lose the confidence of the public in the operations of our court system and the entire criminal justice system will be placed in disrepute with our citizens. It is imperative that the judicial branch of government have adequate financing for its operations. No one is served if the courts are not adequately funded to try the cases filed within a reasonable time. This can be done if available resources are properly allocated, but this allocation of resources requires proper planning and implementation by the judicial branch of government.

I am sure that most state judiciary systems suffer, as we do, from a lack of funding on the state level. As an example, our current state budget provides less than one-third of one per cent (.29) of the total state budget for the operations of the judicial branch of government. H. R. 8967 would be a step toward giving the judicial branch of state governments the resources necessary for them to meet their responsibilities.

Your favorable consideration of H. R. 8967 and its adoption by Congress will enable the third branch of government to fulfill its responsibilities to the citizens of our various states.

Sincerely,

JOE R. GREENHILL, *Chief Justice.*

NATIONAL ASSOCIATION OF REGIONAL COUNCILS,
Washington, D.C., September 29, 1975.

Mr. RICHARD W. VELDE,
Administrator, Law Enforcement Assistance Administration,
Washington, D.C.

DEAR MR. VELDE: In recent weeks, it has been brought to our attention by a number of local government elected officials that the composition of state criminal justice planning agencies did not contain a representative proportion of local government elected officials on their governing bodies. The Crime Control Act of 1973 states "the state planning agency and any regional planning units within the state shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies, units of general local government, and public agencies maintaining programs to reduce and control crime and may include representatives of citizen, professional, and community organizations."

The LEAA guidelines and regulations on this subject characterizes representative character of the state planning agencies in the following manner:

"The composition of such boards may vary from state to state; however, balanced representation is required. . ."

Thus, your own regulations set down the criteria of balanced representation on the state planning agency governing bodies of law enforcement and criminal justice agencies, units of general local government, and public agencies maintaining programs to reduce and control crime.

Webster's Dictionary defines "balance" as to arrange so that one set of elements exactly equals another. Thus, we would interpret that the federal law and your regulations indicate that there should be an equality of numbers among the three groups who are required to be represented on the state planning agency governing bodies.

Based on the above factors, it is our contention that at least 30 percent of any state planning agency governing body should be composed of local elected officials to be in compliance with the federal law and your regulations. We would further contend that these representatives of units of local governments should be the general purpose elected officials, . . . "(the elected executive and legislative officials)".

The National Association of Regional Councils has recently completed a survey to determine the composition and membership of state criminal justice planning agency governing bodies. Our survey indicates that at least 17 states

are not in compliance with the Crime Control Act as amended in 1973, nor in compliance with your regulations concerning representative character of state planning agency governing bodies. Of the 30 states where we have obtained information to date, thirteen state planning agency governing bodies had at least 30 percent local elected official representation; the remaining seventeen states had less than 30 percent and, in fact, four states had less than 15 percent local elected officials on the state planning agency governing bodies. These percentages are based on the LEAA more liberal definition of local elected officials which encompasses elected law enforcement and judicial officers.

If local elected official representation was determined on what NARC believes is a more appropriate definition, that is, local elected officials of general purpose local government, the adequacy of representation of state planning agency governing bodies is even less. Only three states have provided thirty percent representation on the state body.

Based on this survey, a copy of which is enclosed, we would conclude that LEAA has not and is not taking the necessary steps to assure that the State Criminal Justice Planning Agency governing bodies are adequately composed of the representation as required under the provisions of the law. We urge you to take immediate steps to assure that the membership of state planning agencies is brought into conformance with the law in an immediate, but reasonable, period of time. We would hope that you could indicate to us within the next 30 days what steps LEAA is taking in this matter.

"We look forward to providing any assistance that we can in helping to resolve this serious matter.

Sincerely,

RICHARD C. HARTMAN, *Executive Director.*

Enclosure.

SURVEY OF STATE CRIMINAL JUSTICE PLANNING AGENCIES

State	Total	Elected officials general purpose local governments		Local elected officials	
		Total	Percentages	Total	Percentages
Michigan.....	79	8	10	27	34
Kentucky.....	11	1	9	1	9
Maryland.....	29	8	28	10	34
Utah.....	20	7	35	8	40
Missouri.....	18	1	6	3	17
N. Dakota.....	15	2	13	7	47
Arkansas.....	33	0	-----	14	42
S. Carolina.....	27	2	7	-----	-----
Texas.....	20	2	10	4	20
Georgia.....	37	5	14	9	24
S. Dakota.....	17	1	6	3	18
Ohio.....	37	4	11	8	22
Florida.....	36	5	14	15	42
Idaho.....	23	5	22	9	39
Washington.....	28	4	14	8	29
Pennsylvania.....	18	1	6	-----	-----
Nevada.....	21	2	10	7	33
Indiana.....	14	1	7	8	57
Colorado.....	25	5	20	7	28
New Mexico.....	14	4	27	8	57
Oklahoma.....	61	22	36	23	38
Arizona.....	61	22	36	23	38
West Virginia.....	32	3	9	3	9
Nebraska.....	23	2	9	7	30
Connecticut.....	27	1	4	3	11
Massachusetts.....	23	3	13	4	17
Illinois.....	26	1	4	6	23
Oregon.....	18	2	11	5	28
Wisconsin.....	26	2	8	3	12
Virginia.....	18	2	11	5	28

ADMINISTRATIVE OFFICE OF THE ILLINOIS COURTS,
Chicago, Ill., October 31, 1975.

SUBCOMMITTEE OF CRIMINAL LAWS AND PROCEDURES,
COMMITTEE ON THE JUDICIARY, U.S. Senate, Dirksen Senate Office Building,
Washington, D.O.

GENTLEMEN: It is my understanding that your sub-committee is presently considering H.R. 8967 (the Rodino amendment) which would establish a more direct approach to the funding of state court projects, through the Law Enforcement Assistance Administration, than is currently provided for in the Crime Control Act of 1973.

Although it is my belief that H.R. 8967 does not go far enough in eliminating state planning agencies, within the executive branch of state government, as channels for funds to be used by state court systems, I do support it as an effort to partially rectify what I regard as a serious deficiency in the present Act.

In commenting upon the system of funding court programs presently in effect under the Crime Control Act of 1973, our Supreme Court, in its 1975 report to the Illinois General Assembly, stated:

" . . . [T]he Supreme Court cannot and will not abandon its responsibility to administer and supervise the court system in this state, nor will it abandon or dilute its concomitant power to establish priorities for the expenditure of funds to operate that system. . . . [W]e will not accept any money for any program which could result in any economic control over the Illinois court system by any agency other than the General Assembly of this state."

The ultimate constitutional responsibility and the corresponding constitutional power to decide what program should be implemented within the Illinois judicial system are vested in the Supreme Court. While the Court is always receptive to any suggestions from any quarter on how it can improve the administration of justice in Illinois, it will not accept grants which tend to hobble its administrative discretion.

The system of funding court programs presently in effect, under the Crime Control Act of 1973, in my judgment, threatens to compel the courts to relinquish some measure of their fragile independence. In my own state, the state planning agency has very limited representation from the judicial system and, to the present time, refuses to fully recognize the authority of our Supreme Court to determine priorities for the use of funds earmarked for court projects.

For these reasons, I support the efforts to secure passage of H.R. 8967.

Very truly yours,

ROY O. GULLEY, *Director.*

STATEMENT OF CHIEF JUSTICE E. M. GUNDERSON, SUPREME COURT OF NEVADA

I support the purposes of the Rodino Bill (H. R. 8967).

I generally concur in the views expressed by Chief Justice Howell Heflin before the Subcommittee on Criminal Laws and Procedures, Senate Committee on the Judiciary, on the Crime Control Act, October 22, 1975, at Washington, D. C.

The doctrine of separation of powers and the right to due process of law requires that there be a strong and independent judiciary. To be strong, the judiciary must be able to finance judicial improvement. To be independent, the judiciary must be able to receive this financing without undue reliance on the executive branch of government.

In recognizing these fundamental principles, H. R. 8967 addresses problems of long standing concern to the judiciary, resolution of which is essential to its future vitality and independence.

SUPREME COURT OF WYOMING,
Cheyenne, Wyo., October 16, 1975.

Senator JOHN McCLELLAN,
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR McCLELLAN: I should like to solicit your support of the Rodino Bill, HR 8967, which was earlier the subject of a resolution by the Council of Chief Justice, which I believe will strengthen the entire court system of the states.

As the question of priorities becomes more critical by way of demands on these funds, it would appear, because of the composition of these committees generally, that the court system will be left behind.

Because of the mineral developments in this state spurred on by the energy crisis, I anticipate an overloading of the court system as well as increasing demands from other areas of law enforcement upon these funds and fear that unless there is proper recognition of the courts' necessities we may have considerable trouble maintaining a properly operable court system.

Very truly yours,

RODNEY M. GUTHRIE, *Chief Justice.*

RESOLUTION NO. 75-133

A Resolution affirming support of Public Law 93-83, an act supporting the continuation of the Crime Control Act of 1973 and extending its administration to local government.

Whereas, the public safety and protection is a direct concern of the Board of Supervisors of the County of Mono; and

Whereas, there are continued threats to this safety as perpetrated by various acts of crime; and

Whereas, there is a continuing need to develop and test new techniques of law enforcement; and

Whereas, the most appropriate means of doing this is with the direct participation of the local law enforcement officials who understand the unique facets of both the law enforcement environment and the demographic make-up of the local community; and

Whereas, the best manner of achieving this is through broadly discretionary block grants to augment and develop effective techniques of law enforcement. Now therefore, be it

Resolved, that the Board of Supervisors of the County of Mono, State of California fully support the concept of using discretionary block grants for the purposes and reasons enumerated above; and be it further

Resolved, That this Board urges all members of Congress to preserve and extend the block grant program through the State to local governments.

Approved and adopted this 12th day of November, 1975.

Attest:

ANN M. WEBB, *County Clerk.*
EUGENE J. HANSEN, *Chairman.*

By: SHEILA LOISDAL, *Principal Clerk's Asst.*

TO THE MEMBERS OF THE SUBCOMMITTEE ON CRIMINAL LAWS AND PROCEDURE OF THE SENATE COMMITTEE ON THE JUDICIARY

As Chief Justice of the Arkansas Supreme Court, and as a member of the Conference of Chief Justices, I wish to express my gratitude for this opportunity to place brief remarks in the record to be considered by the members of your Committee prior to the conclusion of your hearings on the Omnibus Crime Control and Safe Streets Act.

It has been my purpose, during the nearly nineteen years that I have been in this office, to strive for the continuing improvement of our Court system. Much has been accomplished, and the use of LEAA Funds has been of great benefit in carrying out some of our projects. However, under the law as it presently stands, administered as it is by the Executive Branch, our Courts are placed in direct competition with law enforcement groups, correctional institutions, and other non-judicial agencies of Government, thus creating a situation that is, in my view, inconsistent with the efficient administration of justice.

H. R. 8967 by Congressman Rodino, termed the State Court's Improvement Act, and which would earmark twenty percent of LEAA Grants for the Courts, expresses, I think, the position of the Judiciary in general. This measure has been endorsed by the Conference of Chief Justice and the Conference of State Court Administrators.

I strongly urge your favorable consideration of the proposal mentioned in determining legislation which may be recommended by your Committee.

Respectfully submitted,

CARLETON HARRIS,
Chief Justice, Supreme Court of Arkansas.

NATIONAL NETWORK OF RUNAWAY AND YOUTH SERVICES,
Washington, D.C., March 25, 1976.

Hon. JOHN McCLELLAN,
Chairman, Senate Subcommittee on Criminal Laws and Procedures,
U.S. Senate, Washington, D.C.

DEAR SENATOR McCLELLAN: The National Network of Runaways and Youth Services, established in 1974, is an association of 110 youth centers in the country that provide services to runaways and their families.

At our recent annual convention in Grafton, Illinois, the general body by unanimous vote adopted policy recommendations concerning the Crime Control Act.

First, we believe that the Crime Control Act of 1976 should be reauthorized for three years rather than five years. We believe that three years would provide a sufficient period in which to evaluate the effectiveness of the program. In addition, LEAA is proposing to extend the Juvenile Justice Act four years and the Crime Control Act for five years. Thus both Acts would expire in 1981. We as youth service providers are concerned that the government maintain a particular focus on the needs and problems of juveniles. Merging the two Acts would diminish that emphasis.

Second, we believe that the Crime Control Act of 1976 should include provisions that require a 50% hard cash match for the purchase of hardware. We feel that this provision would free additional monies for software; that is, social action programs.

Third, we believe that the Crime Control Act of 1976 should include provisions that require a minimum of 20% representation from the juvenile justice field on State Planning Agency Supervisory Boards and their Regional Planning Units. With increased concern on behalf of Congress towards the growing incidence of juvenile delinquency and its commitment toward addressing this problem through new federal legislation (P.L. 93-415), we believe it is essential that the interests of juvenile justice be more widely reflected on these state and local policy and planning boards.

We urge you as Chairman of the Senate Subcommittee on Criminal Laws and Procedures to endorse these policy recommendations.

Sincerely,

JOHN WEDEMAYER, *National Chairperson.*

STATEMENT OF CHIEF JUSTICE JAMES T. HARRISON, MONTANA MEMBER OF THE
NATIONAL CONFERENCE OF CHIEF JUSTICES

I appreciate this opportunity to join the entire Conference of Chief Justices in supporting these amendments to the Crime Control Act. Surely the arguments presented by the subcommittee have already been exhaustive. This will merely apprise you of the Montana experience: one of 55 similar jurisdictions.

The Montana Constitution affirms the separation of powers doctrine and through it and some specific statutes steps were taken to insure the application of that doctrine in Montana.

Just this week (10/29/75) the Governor of Montana filed a suit before our Supreme Court against the Interim Fiscal Review Committee, a joint, standing committee of the Montana Legislature. We will need to decide some testy questions of law before this matter is closed. At the same time our embryonic Court Administrator program and various Judicial Commissions and even some Judges are dependent on the Governor's Board of Crime Control for special project funds. Although no one to my knowledge has ever implied undue gubernatorial influence on the court, this is hardly a situation conducive to a thorough separation of powers.

We in Montana, and particularly the judiciary, have enjoyed an exceptionally cordial and helpful relationship with our LEAA state planning agency—the Governor's Board of Crime Control. But that board does lack the fact of judicial experience when it comes to guiding court improvement in Montana.

RESOLUTION ADOPTED BY THE HENNEPIN COUNTY (MINNESOTA)
CRIMINAL JUSTICE COUNCIL

Whereas, the Hennepin County Criminal Justice Council has been established under local governmental sponsorship in accordance with the provisions of the

Crime Control Act of 1973 and the policies of the Minnesota Governor's Commission on Crime Prevention and Control and,

Whereas, this Criminal Justice Council is charged by the local units of government and the Governor's Commission on Crime Prevention and Control with substantial responsibility for the administration of the Minnesota Law Enforcement Assistance Administration program to reduce crime and improve the quality of justice for the citizens of Hennepin County, and

Whereas, the Hennepin County Criminal Justice Council has found it increasingly difficult for local units of government to effectively utilize funding made available through the Crime Control Act of 1973 for the purpose of planning and implementing local crime control programs, and

Whereas, these difficulties are the result of federal and state guidelines, rules and regulations which have caused this block grant program to evolve into a state oriented categorical grant program, now, therefore, be it

Resolved, That the Hennepin County Criminal Justice Council believes that the following principles should be incorporated into the continuing efforts of the federal government to assist states and units of local government to reduce crime and improve their criminal justice system:

The federal government shall continue to assist states and local units of government in reducing crime and improving criminal justice through the continuation of the Law Enforcement Assistance Administration.

Block grants shall be extended through the states to local units of government upon submission of a comprehensive plan to the state for approval in part or whole.

Elected local officials shall comprise a majority of state and regional planning boards with the majority of these local elected officials being executive and legislative officials representing general units of local government.

Congress should appropriately place a special emphasis on improving state and local court systems by adopting the amendment to Section 4, Part C, Section 301(b) as proposed in the Crime Control Act of 1976 (S.2212).

Congress should emphasize crime reduction programs in high crime rate areas by adopting the amendment to Section 4, Part C, Section 360(a)2 as proposed in the Crime Control Act of 1976 (S.2212). Be it further

Resolved, That the Hennepin County Criminal Justice Council urges Congress to adopt and appropriate funding sufficient to meet the authorization levels as proposed in the Crime Control Act of 1976 (S.2212).

Adopted on October 7, 1975

Alderman, Co-Chairman, Hennepin County Criminal Justice Council.
 THOMAS L. JOHNSON,
 THOMAS L. OLSON,
 Commissioner.

WYOMING EXECUTIVE DEPARTMENT,
 Cheyenne, Wyoming, November 3, 1975.

HON. JOHN L. McCLELLAN,
 Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
 U.S. Senate, Washington, D.C.

DEAR SENATOR McCLELLAN: It has come to my attention that legislation reauthorizing the Crime Control Act, S. 2212, is the subject of hearings by the Senate Judiciary Subcommittee on Criminal Laws and Procedures.

The program which this legislation authorizes is one of great concern to me as are many of the fine projects which it has made possible in Wyoming and at the national level. There are two proposed amendments to this legislation which are troubling and with which I must take exception. They are the State Court Improvement Act of 1975 and several proposals designed to establish categorical grant programs for cities.

The State Court Improvement Act of 1975, introduced as H.R. 8067 by Representative Rodino on behalf of the Conference of State Chief Justices, proposes the establishment of a separate Part F to the Crime Control Act, providing assistance to state courts. This part would be funded in an amount equal to 20 percent of the amount allocated for Part C. These funds would be allocated by the state court of last resort, but administered by the state planning agency which would be required to give prima facie validity to the plans and allocations of the state court of last resort. In addition, the proposal would mandate that not less than one-third of the members of the su-

pervisory board of the state planning agency be appointed from a list of nominees submitted by the Chief Justice of the state court of last resort.

State judicial systems must be encouraged to develop planning capabilities. However, the proliferation of uncoordinated planning units within the criminal justice system should be avoided. These capabilities should be encouraged within the framework of comprehensive criminal justice planning, which has been a primary objective of the Crime Control Act since its inception.

Membership on supervisory boards for state planning agencies has always been representative of the criminal justice community which it serves. The requirement that not less than one-third be appointed from judicial nominations detracts from, rather than enhances, the representative nature of the committee. This mandatory representation coupled with the proposed prima facie validity of judicial funding plans would be an overreaction to the deficiencies these proposals attempt to correct.

In Wyoming, the lack of an in-house judicial planning capability has been recognized. With the support of the state planning agency, the Wyoming Judicial Conference has appointed a judicial planning council. Procedures are being devised so that this council will have input into state grant and planning programs affecting the judiciary. A new funding category has been established by the state planning agency to assist in developing this planning capability. These advances are being accomplished within the framework of comprehensive criminal justice planning, rather than in addition to it. It is my belief that it is this alternative which best serves the criminal justice system.

A second group of proposals, sponsored by the National League of Cities and the United States Conference of Mayors, has not yet taken the form of introduced amendments. They envision the adoption of a program of mini-block grants to cities of not less than 100,000 population. Although these proposals do not affect Wyoming directly, the concept which they embody does concern me.

My objections to them parallel those I have already expressed concerning the court amendments. The implementation of mini-block grants to cities under the Crime Control Act would tend to fragment and minimize the impact of the statewide criminal justice planning process. Independent funding encourages individual cities to "go their own way," without regard to the statewide comprehensive planning efforts.

As your committee will be addressing these issues shortly, I felt it necessary and appropriate to make these views known to you.

Yours sincerely,

ED HERSCHLER,
Governor.

SUPREME COURT, STATE OF CONNECTICUT,
Hartford, Conn., October 14, 1975.

Re LEAA Authorization Legislation.

HON. JAMES O. EASTLAND,
Subcommittee on Criminal Laws and Procedures, Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR EASTLAND: As Chairman of the Conference of Chief Justices, I write to you as a member of the Senate Judiciary Subcommittee on Criminal Laws and Procedures in connection with the hearings before your subcommittee later this month on legislation concerning the Law Enforcement Assistance Administration.

You are undoubtedly aware that in the opinion of the Conference of Chief Justices the LEAA Act, as presently in effect, contains structural and procedural defects which the Conference urges be corrected to provide financial aid to State courts while avoiding the possibility of the imposition of political pressure of Judges of the State courts. This concern resulted in the adoption of formal resolutions by the Conference at the annual meetings in August, 1974, and August, 1975. I enclose copies of these resolutions for your consideration.

The recommendations made by the Conference of Chief Justices in these two resolutions are contained in the provisions of H. R. No. 8967 entitled "The State Courts Improvement Act of 1975."

Because of the court schedules and commitments, it will not be possible for many of us Chief Justices to attend the hearings before your subcommittee, but we will be represented by a special committee of our Conference of which the Honorable Howell T. Heflin, Chief Justice of the Supreme Court of Alabama, is chairman. Chief Justice Heflin and his committee are authorized to speak for the Conference of Chief Justices at the hearings before your subcommittee and I would join with them in urging your favorable consideration of the provisions of H.R. No. 8967.

Very truly yours,

CHARLES S. HOUSE,
Chairman, Conference of Chief Justices.

Enclosures.

RESOLUTION ADOPTED BY THE CONFERENCE OF CHIEF JUSTICES
AT ITS ANNUAL MEETING ON AUGUST 7, 1975

Whereas, the Conference of Chief Justices at its 1974 session realized that structural and procedural defects in the LEAA program relating to courts could be remedied only by Congressional change and therefore adopted a resolution urging Congress to amend the LEAA Act so as to provide reasonably 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, based upon the principle that plans and projects for the improvement of state judicial systems should be developed and determined by the respective state court systems themselves; and

Whereas, numerous meetings and discussions by the Committee on Federal Funding of this Conference have been held with members of Congress, officials of the Law Enforcement Assistance Administration, and other interested persons, culminating in an increasing awareness of the problems posed for the judiciary by the existing methods of allocating funds; and

Whereas, the members of this Conference consider Congressional action essential if the State court systems are to be assured a reasonable proportion of Federal funds to be used as the supervising authority of the State court systems may direct; and

Whereas, there has been introduced in the Congress by Congressman Peter W. Rodino, Jr., Chairman of the House Judiciary Committee, legislation known as the State Courts Improvement Act, set forth in House Bill 8967, designed to implement the objectives endorsed by this Conference at its 1974 session, now, therefore, be it

Resolved, By the Conference of Chief Justices, in plenary session assembled on the 7th day of August, 1975, That (1) Expedient consideration and passage of this legislation will very substantially further improvements in the administration of criminal justice in these United States; (2) It endorses and commends to the favorable consideration of the members of Congress the provisions of H.B. 8967; (3) The Special Committee of this Conference on Federal Funding is authorized to take such action as its members may consider desirable to secure passage and approval of House Bill 8967.

RESOLUTION ADOPTED BY THE CONFERENCE OF CHIEF JUSTICES
AT ITS ANNUAL MEETING ON AUGUST 16, 1974

Whereas, the Conference of Chief Justices is appreciative of the Congress of the United States for its criminal justice program by which financial assistance has been channeled to the States to augment State and local sources in improving the administration of justice within the States; and

Whereas, it is commendable that such criminal justice program has been administered by the Law Enforcement Assistance Administration without an attempt to impose mandatory federal standards upon State court systems; and

Whereas, in the administration of such criminal justice program by State executive planning agencies of the LEAA there have surfaced serious structural and procedural defects, among which are those revealing that State court systems and State judges have been placed in an arena of competition with executive agencies of the State government, including police, correctional defense and prosecutorial groups, which competition is destructive of the separation of powers doctrine and the independence of State judiciaries, and

which competition also fosters the exertion of political pressures on State judges; and

Whereas, because of such serious structural and procedural weaknesses State court systems have not received an adequate share of financial assistance as measured by their critical responsibilities, with the shocking revelation that the States' share of LEAA funding was only 5.12% in the fiscal year 1971 and declined to 3.61% in the fiscal year 1973, in spite of calls by the national Law Enforcement Assistance Administration for State planning agencies to greatly increase the funding allocated to State courts. Now, therefore, be it

Resolved by the Conference of Chief Justices duly assembled in plenary session on the 16th day of August, 1974:

1. 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.

2. The special Committee on Federal Funding of this Conference is authorized to develop appropriate suggested revisions of the LEAA Act which would mandate that a fair and adequate share of LEAA State block-grant funding be allocated to State court systems and that the use of these funds to improve and strengthen State court systems be under the direction of the responsible leadership of the State judiciaries in keeping with our tripartite concept of government.

3. The special Committee on Federal Funding is authorized to present such suggested revisions of the LEAA Act to Congressional committees, members of Congress, the Law Enforcement Assistance Administration, and others as necessary and appropriate to secure support for such needed revisions; for that purpose the special Committee may, with the concurrence of the Executive Council, determine the policy of the Conference in regard to the proposed revisions, without purporting to speak for every member of the Conference.

STATE OF ARKANSAS,
JUDICIAL DEPARTMENT,
Little Rock, Ark., October 29, 1975.

Senator JOHN I. McCLELLAN, *Chairman,*
Members of the Subcommittee on Criminal Laws and Procedures of the Senate
Committee on the Judiciary.

GENTLEMEN: H.R. 8967 by Congressman Rodino expresses the position of and has been endorsed by the Conference of Chief Justices and the Conference of State Court Administrators.

I understand that these matters are now being considered by your subcommittee and I respectfully urge your support.

Sincerely,

C. R. HUIE.
SUPREME COURT OF VIRGINIA,
Portsmouth, Va., November 3, 1975.

To the CHAIRMAN and MEMBERS
Senate Subcommittee on Criminal Laws and Procedures.

I support the Rodino Bill (H.R. 8967).

However, I am constrained to note that our State Planning Agency has cooperated in every way with the courts in Virginia.

LAWRENCE W. I'ANSON, *Chief Justice.*

STATE OF ARKANSAS,
OFFICE OF THE GOVERNOR,
COMMISSION ON CRIME AND LAW ENFORCEMENT,
Little Rock, Ark., September 30, 1975.

HON. JOHN McCLELLAN,
Dirksen Office Building,
Washington, D.O.

DEAR SENATOR McCLELLAN: Although I have been directly involved with the Law Enforcement Assistance Administration for a relatively short time, I

believe there are very beneficial effects from their efforts and from the federal funds that have become available to improve the criminal justice system. The benefits are difficult to measure and certainly are not currently reflected in the overall crime index. The Omnibus Crime Control and Safe Streets Act of 1968 and the Crime Control Act of 1973 have contributed, however, to a better quality of criminal justice in Arkansas. Basically, Arkansans have derived two important things from these Acts: the opportunity to improve and the encouragement to do more than the status quo in providing better law enforcement, adjudication and incarceration.

Many of our officials had the desire to improve their situations, but the opportunities, primarily money, had not been provided by either local or state government. The LEAA funds encouraged improvements through additional personnel, increased training and educational efforts and better facilities for the police departments, courts and the Department of Correction.

More specifically, prior to 1967, the Arkansas Law Enforcement Training Academy had not received the level of funds needed to provide basic and advanced training for all local police in our state. Today that problem has been remedied with a facility which is able to keep up with the demand. Judges received very little, if any, continuing education. Today all Arkansas judges can attend various out-of-state programs and many in-state programs that are conducted by the Arkansas Judicial Department and the Arkansas Bar Association. The federal courts in Arkansas began ruling on the inadequate housing and conditions at both Cummins and Tucker correctional facilities. LEAA funds made it possible for the institutions to comply with many of the court's guidelines for better housing and facilities.

We are beginning to develop criminal justice standards and goals for Arkansas. This is an effort which I believe will help us direct more attention to crime prevention and increased citizen participation. Citizens and officials throughout the state are assisting this office in preparing the standards and goals and we believe that this effort will greatly improve the capabilities of the state and local criminal justice system.

It is possible that the efforts so far and the monies spent have provided a new and necessary base and from this improved basic position, major efforts can now be directed toward the real problem—crime prevention. It is to this end that our energies are directed.

We appreciate your continuing interest in this national problem and we are grateful for the many benefits that have accrued to Arkansas through the LEAA program.

Sincerely,

GERALD W. JOHNSON,
Executive Director.

SUPREME COURT OF PENNSYLVANIA,
Philadelphia, Pa., October 30, 1975.

Re Rodino Bill (H.R. 8967).

HON. JOHN McCLELLAN,
*Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
Senate Office Building, Washington, D.C.*

DEAR SENATOR McCLELLAN: I am writing this letter to you on behalf of the judiciary of the Commonwealth of Pennsylvania in support of the Rodino Bill (H.R. 8967), and request that my statement be made a part of the record.

The judiciary in Pennsylvania and the Administrative Office of Pennsylvania Courts have over the past years enjoyed a very fine cooperative relationship with our state planning agency, the Governor's Justice Commission. Pennsylvania, in 1968, amended its Constitution to provide for a unified judicial system, giving the Supreme Court general supervisory and administrative authority over all of the courts of the Commonwealth, with the power to prescribe general rules governing practice, procedure and conduct of all courts. The Constitution also created the office of a Court Administrator, to be appointed by the Supreme Court, together with such subordinate administrators and staff as necessary for the prompt and proper disposition of the business of all courts. Under the present LEAA program, federal funding to state agencies is limited to a small proportion appropriated for "discretionary purposes." The result has been that the judiciary is forced to compete for federal monies with other agencies of the Executive Branch of state government, in-

cluding police, corrections, probation, prison and prosecutorial agencies. The tendency has been to superimpose general programming concepts and either ignore the courts' needs or give them a subordinate role.

The judiciary, as a separate and independent Branch of the government, should have discretion in determining the nature and operation of statewide plans best needed for the improvement of the judicial system. The primary need for court improvement is at the trial and lower-court levels, but universally the courts have been "short-changed" in receiving their fair share of federal funding.

I support the Rodino Bill (H.R. 8967), and earnestly urge your favorable consideration thereof.

Very truly yours,

BENJAMIN R. JONES.

STATEMENT OF MICHIGAN SUPREME COURT CHIEF JUSTICE THOMAS G. KAVANAGH

To The Honorable, The Members of the Subcommittee: Please accept the thanks of the Michigan courts for this opportunity to speak to the problems concerning LEAA and the courts.

Despite the best efforts of the Michigan courts and the state planning agency, Michigan shares with the other states problems outlined in the Summary Statement of the Conference of Chief Justices, "Increasing Support for State Courts Under LEAA: A Problem in Need of Congressional Action." The imbalance in the allocation of LEAA resources, favoring law enforcement and corrections over courts is troublesome. In Michigan, from 1969 through June, 1974 approximately 2% of the LEAA funds available to local government was allocated to courts and only 11% of the funds available for state level programs was allocated to courts. In both instances, court related programs for defense, prosecution, pre-trial release, probation and diversion programs are not included in the percentages.

We are also concerned with the impact on the independence of the judiciary and funding cycles. We are convinced that the judiciary is the branch of government best able to determine its role and capability in assisting the executive branch in enforcing the laws you enact. If the state planning agency, which makes funding decisions for LEAA programs, is almost totally made up of executive branch representatives, such expertise as the judiciary can bring to consideration of the problem is lost.

Further we are persuaded that a funding cycle limited to one year (as is usually the case) with no guarantee of continuation, does not allow enough time for significant improvements.

Finally, it must be realized that courts are responsible for civil litigation as well as criminal. Few will disagree with the proposition that criminal cases have priority, but a disastrous result is the logjammed state of the civil docket. This in turn hampers law enforcement, and if the legislation is truly to result in "Law Enforcement Assistance" we feel court projects which would attack the civil docket problem should be considered for LEAA funding.

Courts need resources to handle the increasing workload. Additional judges are not always the answer. Innovative management techniques, specialized training for judges and court personnel, and many other areas of judicial administration are in need of attention. Courts need resources to attack these problems if they are to assist effectively the law enforcement agencies dealing with the awesome problems of crime, and the approach of H.R. 8967 offers potential far and above the experience we've had thus far with the LEAA program.

We are grateful for your concern.

THE STATE OF NEW HAMPSHIRE,
SUPREME COURT,
Concord, N.H., October 29, 1975.

Senator JOHN MCCLELLAN,
Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
Senate Office Building, Washington, D.C.

DEAR SENATOR MCCLELLAN: I have read, analyzed, and am in entire agreement with the statement of Chief Justice Howell Heflin of the Alabama Supreme Court, who is Chairman of the Federal Funding Committee of the

Conference of Chief Justices, which was submitted to the Subcommittee on Criminal Laws and Procedures on October 22, 1975.

It is my request that this statement be made a part of the record.

Very truly yours,

FRANK R. KENISON.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, INC.,
Gaithersburg, Md., November 5, 1975.

To: Members of Congress.

From: Glen D. King, Executive Director.

Subject: Congressional Hearings Regarding the Role of the Law Enforcement Community in the Administration of Criminal Justice.

Since 1893, the International Association of Chiefs of Police has served the law enforcement profession and the public interest by advancing the art of police science. Its staff of police management consultants, educators and trainers, highway safety consultants, researchers, and systems analysts develops and disseminates improved administrative, technical, and operational practices and promotes their use in police work. Its aims are to foster police cooperation and the exchange of information and experience among police administrators throughout the world; to bring about recruitment and training of qualified persons; and to encourage adherence of all police officers to high professional standards of performance and conduct.

It is with these goals in mind that we send you the enclosed resolution which was passed at our 82nd Annual Conference in Denver, Colorado, September 18-18, 1975.

We would sincerely appreciate your careful and thoughtful consideration of this resolution to assist the law enforcement community in preventing and controlling crime and criminality in the United States.

RESOLUTION

Whereas, during the current session of United States Congress several Committees in both the House of Representatives and the Senate have conducted investigations and held hearings at the Federal, state and local levels of law enforcement about the role of the law enforcement community in the administration of criminal justice. Some of the statements emanating from these proceedings have been detrimental to effective law enforcement, and

Whereas, the law enforcement community recognizes its role in the (1) protection of the individual's right to privacy, and (2) prevention and control of crime, and

Whereas, Congress as a whole shares these goals. However, the activities of some of the Members of Congress and members of committee staffs have shown disregard for legislative responsibility. In some cases the Congressional authorization for the inquiries has been drafted in imprecise, overbroad language. This has given rise to the inappropriate use of investigative authority by some Committee staff, and

Whereas, these activities and statements have caused unnecessary investigation of law enforcement agencies and an improper imputation of wrongdoing by innuendo. These improper actions not only have had a chilling effect on the cooperation among Federal, state, local and international law enforcement agencies, but also have impacted on the morale and effectiveness of law enforcement agencies, now therefore be it

Resolved, At the 82nd Annual Conference of the IACP, at Denver, Colorado, that the Congress of the United States should: (a) support the efforts of the law enforcement community which will continue to contribute significantly to the prevention and control of crime and criminality in the United States; (b) recognize that statements issued by certain Members of both the House of Representatives and the Senate and Congressional Committees and Sub-Committees have been detrimental to law enforcement activities; (c) monitor more carefully the delegation of investigative authority in all instances of hearings affecting law enforcement; (d) more carefully supervise the activity of its staff members to curb continuing staff abuses, and be it further

Resolved, That the law enforcement community accepts the challenge to continue to institute proper safeguards in the administration of criminal justice, and be it further

Resolved, That the Executive Director of the International Association of Chiefs of Police shall cause this Resolution to be delivered to the President of the United States, the Attorney General and all Members of Congress.

THE SUPREME COURT OF MINNESOTA,
St. Paul, Minn., October 31, 1975.

Senator JOHN L. McCLELLAN,
U.S. Senate Judiciary Committee, Subcommittee on Criminal Laws and Procedures, Dirksen Office Bldg., Washington, D.C.

DEAR SENATOR McCLELLAN: As chairman of the Conference of State Court Administrators, I wish to advise you that at our annual meeting last August the position as related to you on October 22, 1975 by Marian P. Opala, the chairman of our State-Federal Relations Committee, was unanimously adopted. Our conference supports passage of a law incorporating the provisions of H. R. 8967, authored by Mr. Rodino and now in the House of Representatives.

I also personally endorse the passage of law as set forth above even though our relations with the Governor's Commission on Crime Prevention and Control, which is the local planning agency for L.E.A.A. funding here in Minnesota, has been most friendly and we have always received cooperation from the director and his staff.

Very truly yours,

RICHARD B. KLEIN,
State Court Administrator.

STATE OF SOUTH DAKOTA,
EXECUTIVE OFFICE,
Pierre, S. Dak., December 22, 1975.

Hon. JOHN L. McCLELLAN,
Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR McCLELLAN: I am advised that Mr. Ellis D. Pettigrew, Court Administrator of the South Dakota Supreme Court, has written you concerning the reauthorization of the Law Enforcement Assistance Administration. (S.2212)

I wish to take this opportunity to advise you of my thoughts on this matter. The Crime Control Act of 1973, Public Law 93-83, established the Law Enforcement Assistance Administration within the U.S. Department of Justice. One of the Administration's functions is to make grants to the states for the establishment of state planning agencies created or designated by the state's chief executive. In accordance with that law I have designated the Division of Law Enforcement Assistance (D.L.E.A.) within the Department of Public Safety as the "State Criminal Justice Planning Agency" for South Dakota.

The Division of Law Enforcement Assistance function is to develop a comprehensive statewide plan for crime prevention and the improvement of the criminal justice system throughout the state. This includes the development and correlation of programs and projects for all governmental units (state, local, tribal) within the state.

Contrary to the statements of Mr. Pettigrew, the Division of Law Enforcement Assistance funding decisions are made and priorities are established based on the greatest needs of the criminal justice system, rather than the needs of a particular branch of government. In regard to what Mr. Pettigrew describes as "strings attached" or requirements placed on grants, I point out that these are efforts to insure that the funds are utilized properly and are not being misused in any manner. The majority of the requirements are standard special conditions attached to all grants awarded in South Dakota and are by no means discriminatory against the court system. These requirements allow us to be accountable to L.E.A.A. and ultimately to Congress. These are requirements placed upon all grants awarded by the South Dakota Criminal Justice Commission, be the grantee a state, local or tribal governmental unit. To that end, the court system should not be an exception.

Mr. Pettigrew should not interpret recommendations to add a judicial planner as intimidation. This proposal was made out of an honest conviction

that such a position would enhance the operation of the Supreme Court Administrator's Office. Mr. Pettigrew also alluded to what he felt were coercive efforts by the Executive Branch to obtain funding for a study of the South Dakota Correction system. My role in that matter was to simply write a letter of support for the study as did several legislators. As a matter of fact, the effort received bipartisan support. I might also add that, when the members of the Criminal Justice Commission reconsidered the proposal, the vote on the funding proposal was unanimous with all members present, *including* Mr. Pettigrew, supporting the proposal.

The unified court systems requests in the planning process have constantly been honored. In Fiscal Year 1973 the court system received \$373,630.24, or 21.8% of Part C action funds awarded to the State of South Dakota. In Fiscal Year 1974 the court received \$213,091.08, or 21.48% of the funds. In Fiscal Year 1975 the court received \$183,761.07, or 9.76% of the total funds. This does not represent all of the funds programmed into the courts area as there is a considerable amount of funds that have not yet been awarded. Nonetheless, during the Fiscal Year 1976 Planning process, Mr. Pettigrew withdrew the major portions of the court funds programmed into the Fiscal Year 1976 Plan. It is not coincidence that the Audit Response criticizing the Supreme Court for not properly administering L.E.A.A. funds was released at the same time. I think you and I know the objective of the L.E.A.A. program is not for one agency to simply "get their fair share." My understanding is that the program was designed to prevent crime and delinquency; not to insure that the courts have one-third of the money set aside for their own programs.

The South Dakota Criminal Justice Commission is currently composed of 21 members. This is broken down in the following manner: court, 19%; elected officials, 19%; prosecution and defense, 10%; state government executive branch representation, 10%; police, 10%; corrections, 14%; Indian representation, 4%; private citizens, 4%; and juvenile delinquency, 10%. As is apparent, court personnel represent more than any other single agency, branch or unit of government.

I feel the most realistic and effective approach to crime prevention is the development of "state-wide and system-wide" plans and programs, based on a viable planning process. One of the major problems in the criminal justice system has been its fragmented nature. L.E.A.A. has assisted in improving needed coordination. I contend Mr. Pettigrew's proposals, on the other hand, would renew pressures to fragment the system.

I am taking the liberty of enclosing a copy of a letter which I recently sent to the Members of the South Dakota Congressional Delegation concerning this matter.

I pledge that the court system and all other segments of the Criminal Justice system are and will continue to be treated fairly to the ends of preventing crime, improving the criminal justice system and making the State of South Dakota a better place to live for all its citizens.

I respectfully request your careful consideration of my thoughts in this matter, and with every best wish, I remain

Sincerely,

RICHARD F. KNEIP, *Governor.*

STATE OF COLORADO,
JUDICIAL DEPARTMENT,
Denver, Colo., October 29, 1975.

Senator JOHN L. McCLELLAN,
Subcommittee on Criminal Laws and Procedures, Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR McCLELLAN: I am writing to express my support for the position of the Conference of Chief Justices and the Conference of State Court Administrators with respect to the administration of LEAA funding for court projects and the amount of that funding which should be made available. In other words, I wish to add my voice along with others in endorsing the concepts embodied in HR 8967, introduced by Representative Rodino and with which you are familiar.

In the past, the Colorado judicial system has not had as much of a problem as many other judicial systems in many other states, even though the proportion of block grant money made available to us was relatively small (7 to 8%). We participated in developing our portion of the state plan and had been reasonably successful in receiving the grants requested. In part, this was because of at least some representation on the SPA Council (five of 22 members), nevertheless, the process is cumbersome, and some of the separation of power problems noted by Chief Justice Heflin and Mr. Opala occurred here as well.

There now has been a dramatic change in our relationship with the SPA. The council has been reconstituted, and, of the 25 members, the judiciary has only one representative—me. This reduction in representation, along with changes in administrative politics by the SPA Council and its staff, has caused considerable difficulty for us in obtaining funds for what we consider to be legitimate projects. One example was the attempt of the new council to terminate block grant funds for judicial training, which was almost successful until the Chief Justice intervened with a personal letter to each council member.

Not only has this occurred, but some of the grant conditions required by the SPA staff approach an imposition of management judgments by an executive agency on an independent branch of government. An example, is the SPA staff opinion that it knows more about trial court administrator training than we do and has attempted to dictate its own concepts in our grant for his purpose.

As you may know, Colorado has one of the most sophisticated judicial systems in the country and meets most of the standards on court organization recommended by the American Bar Association Commission on Standards of Judicial Administration. The Chief Justice is the executive head of the system, we have a professional administrative staff at the state level, and trial court administrators in each judicial district. The system is state funded and has a separate personnel system for all court employees. As you can see, we have our own planning capability, so what we are experiencing is not a result of our inadequacies.

In closing, I wish to thank you for the opportunity to present my views on this important matter and express my appreciation for your consideration.

Sincerely,

HARRY O. LAWSON,
State Court Administrator.

THE SUPREME COURT OF NEW MEXICO,
Santa Fe, N. Mex., October 28, 1975.

Senator JOHN L. McCLELLAN,
*Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
Senate Office Building, Washington, D.C.*

DEAR SENATOR McCLELLAN: This is just a short note to request your support of Congressman Rodino's Bill (H.R. 8967) when it comes to your attention.

I wholeheartedly agree with the statement of Chief Justice Howell Heflin of Alabama in his testimony before your committee on October 22, 1975.

Thank you again for your courtesy in reading my letter.

Sincerely,

JOHN B. McMANUS, JR., *Chief Justice.*

NATIONAL ASSOCIATION FOR COURT ADMINISTRATION,
Denver, Colo., November 21, 1975.

HON. JOHN McCLELLAN,
*U.S. Senate,
Washington, D.C.*

DEAR SENATOR McCLELLAN: The National Association for Court Administration held its annual meeting in Houston, Texas, late in October. One of the principal items under discussion was the proposed State Courts Improvement Act, introduced in the House by Congressman Rodino as H.R. 8967, and sponsored in the Senate by Senator Kennedy.

The following resolution was adopted after full discussion of the legislation:
Whereas the Law Enforcement Assistance Administration has as its mandate

from the United States Congress and the President to control crime and improve the criminal justice system in this nation, and;

Whereas the National Association for Court Administration, being the largest association of its kind in the nation with over 600 members throughout the United States, representing all levels of courts, has organizational goals and objectives that seek to improve the criminal justice system through improving the administration of all courts and thus the fair and efficient administration of justice, and;

Whereas the Law Enforcement Assistance Administration can improve upon the amount of assistance it provides for the courts of our nation;

Now, therefore be it resolved that the Executive Board, all the officers and the entire membership of this association encourage the swift consideration and immediate passage of H.R. 8967, The State Courts Improvement Act of 1975, which will provide additional federal monies and planning capabilities to the state and local courts of our nation thereby improving their ability to provide for an adequate administration of justice and assist the nation in its war against crime in this country.

We respectfully urge your favorable consideration of this proposed legislation.

Sincerely,

JACQUE MENKE, *President.*

STATEMENT BY THE HON. JOSE TRIAS MONGE,
CHIEF JUSTICE OF THE SUPREME COURT OF PUERTO RICO

Honorable Chairman, Mr. John McClellan, and members of the Senate Judiciary Subcommittee on Criminal Laws and Procedures: I feel greatly honored in having the opportunity to address the distinguished members of the Senate Judiciary Subcommittee on Criminal Laws and Procedures. As the representative of the Judicial Branch of the Commonwealth of Puerto Rico, I intend to convey the importance that to our Judicial Branch, and to our whole system of justice, represents the approval of H.R. 8967, which establishes the "State Courts Improvement Act of 1975."

It is a well-known fact that one of the greatest evils of our times which affects numerous communities is the high incidence of crime. The past decade has marked out a whole spectrum of violence and crime. Puerto Rico is by no means an exception. Our Commonwealth, as happens in other jurisdictions of the United States and in other countries of the world, is seriously, gravely concerned with the problems of crime. For the past two years we have been engaged in the difficult task of finding new ways to combat criminality and establishing programs towards the prevention of violence.

With very limited funds, but with the certainty that there is a great need for reforming our system of justice, we have undertaken said reform, which has as one of its ultimate goals the modernization and improvement of our courts as a means of reducing and preventing crime and juvenile delinquency.

As part of the reform of our system of criminal justice, numerous bills were approved last year by the Legislature of Puerto Rico. Among these, a new Penal Code was approved, substituting our obsolete Code which dated from almost a century ago; laws reforming integrally our correctional system; legislation reorganizing the Police Department; procedural measures meant to expedite cases, including those eliminating the requisite of corroboration of an accomplice, establishing uniform rules of identification of suspects, discouraging suspension of court proceedings and abolishing de novo trials, and creating the Criminal Appellate Division. The first part of the reform of the Puerto Rican system of justice included nearly 50 bills, which today are laws.

But in the field of criminal justice there is still much to be done, specifically respecting one of its components: the courts. Our present problems of crime cannot be properly met with our present court system. We have to establish additional rules and regulations eliminating delay and congestion. Modern management and administration techniques must be applied, as a fundamental step in the adequate handling of the criminal caseload. Delay in criminal cases results in a delay in due process and in the loss of public respect in our system of justice.

Furthermore, planning, research, evaluation are indispensable tools in our courts system, as our policy of the future will undoubtedly be based on those aspects.

Reliable statistics are necessary, among other factors, as a means of revision of sentencing practice. Courts do not have such means in order to review, modify or defend their sentencing practice.

A revision of the Rules of Criminal Procedure of Puerto Rico, of the Law of Evidence, as well as of the Law of Juvenile Affairs and the Rules to implement the same is past overdue.

The above mentioned areas constitute part of our plans for the continuation of judicial reform in the criminal field. But with our limited resources, inappropriate funding and unequal assistance in relation to the other components of the system of criminal justice, we cannot achieve those goals.

Unfortunately, Congress' response to the problems of crime in approving the Omnibus Crime Control and Safe Streets Act of 1968 is not meeting, in its implementation, the courts' needs. Notwithstanding the constitutional doctrine of separation of powers, the judicial branch must appeal to the executive branch in order to obtain funds allocated to the criminal justice agencies. This, undoubtedly, brings about problems in the implementation of our programs and prevents the furtherance of judicial reform, as previously outlined.

With the approval of H.R. 8967 the judicial reform will be continued and our courts will be placed in an adequate position to fulfill the purpose of the Omnibus Crime Control and Safe Streets Act of 1968 of reducing and preventing crime and juvenile delinquency.

Therefore, the Puerto Rican Judiciary heartily and fully endorses H.R. 8967, establishing the "State Courts Improvement Act of 1975," and respectfully urges your Subcommittee to recommend its approval.

COURT OF APPEALS OF MARYLAND,
Towson, Md., November 3, 1975.

Hon. JOHN MCCLELLAN,
Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
Senate Office Building, Washington, D.C.

DEAR SENATOR MCCLELLAN: Section 18A of Article IV of the Constitution of Maryland provides that the Chief Judge of the Court of Appeals of Maryland is the administrative head of the State's judicial system. It is in this capacity that I wish to record my whole-hearted support for the Rodino Bill (HR 8967), now before your Subcommittee for consideration, and ask that this letter be made a part of the record in the proceeding.

Sincerely,

ROBERT C. MURPHY,
Chief Judge.

SUPREME COURT,
STATE OF LOUISIANA,
New Orleans, La., October 31, 1975.

Re HR 8967, by Mr. Rodino.

Senator JOHN L. MCCLELLAN,
Chairman, Subcommittee on Criminal Laws and Procedures, U.S. Senate's Committee on the Judiciary, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR MCCLELLAN: On behalf of the judiciary of Louisiana, I wish to express to you our deep concern over the manner in which Law Enforcement Assistance Administration funds are distributed in Louisiana. Our state planning agency, which distributes these funds in Louisiana, is composed of 64 members. Of these, only 4 represent the judiciary. The planning commission is overwhelmingly balanced in favor of police and prosecutors. What they say goes, and regardless of the merits of a particular application it is easily defeated if it does not serve their interests. As a result, the courts and judges of this state have become increasingly disenchanted with participating in these programs. The courts of this state have received an average of about 3% of the approximately \$10 million in block grant funds designated for Louisiana.

Since the overwhelming percentage of the funds have been poured into law enforcement and prosecution, these agencies have, as a result, increased their production and have thrust an increased load on the courts. Our courts are

not able to keep up with this increased load without receiving a larger share of LEAA funds.

As you know, HR 8967 attempts to cure the ills described above. We ask for your wholehearted support of this measure. Thank you for your understanding and cooperation.

Very truly yours,

EUGENE J. MURRET.

OCTOBER 17, 1975.

Hon. JAMES AROUNZEK,
U.S. Senator, Dirksen Senate Building,
Washington, D.C.

DEAR JIM: I was shocked recently when I learned that serious crime, which includes murder, robbery, rape and burglary, last year increased nationally by 17 percent. I understand that is the largest increase in serious crime since the Federal Bureau of Investigation started keeping statistics in the 1930's. What is even more alarming to me, is the fact that rural crime seems to be increasing at a faster rate than urban crime.

With these startling statistics in mind, I feel it is imperative that you lend your support to the proposed legislation to re-authorize funding of the Law Enforcement Assistance Administration (S. 2212) I understand the Senate Judiciary Committee has recently begun hearings on this matter.

The L.E.A.A. program has been extremely valuable to South Dakota in that it has provided needed funds to improve our criminal justice system and also provides funding to help combat the spiraling crime problems which is also evident in our state.

I also urge you to oppose any attempts aimed at further categorization of the L.E.A.A. Program (i.e. H.R. 8967 which is the State Courts Improvement Act of 1975). If the L.E.A.A. Program is to be maximally effective, it is important that criminal justice planning be comprehensive and integrated, not fragmented and disjointed. If you have any questions or if I can provide additional information or assistance, please feel free to communicate with me.

Therefore, I respectfully request your favorable consideration of the matters I have raised, and with every best wish, I remain

RICHARD S. KNEIP, Governor.

Sincerely,

GRAYS HARBOR REGIONAL PLANNING COMMISSION,
Aberdeen, Wash., November 24, 1975.

Hon. JAMES EASTLAND,
Committee on the Judiciary, Senate Office Building,
Washington, D.C.

DEAR SENATOR EASTLAND: We wish to formally express our utmost support for S. 2212, which would renew the Crime Control Act of 1973 (PL 93-83).

We represent a small rural area in Western Washington which has only recently become involved in criminal justice planning. In spite of our efforts, like elsewhere in our Nation, our crime rates have increased significantly. We know that any funds which would be provided by S. 2212 are not alone going to significantly reduce crime, or even improve the system. However, this program, administered by LEAA, will give us valuable planning assistance in addition to supplementing the limited funds for local law and justice programs. This planning assistance can help us maximize our local efforts.

While we strongly urge the reauthorization of the LEAA program we would also suggest certain improvements. At the present time approximately 70% of all criminal justice expenditures are paid from local revenue sources. Therefore, it seems appropriate that a similar ratio of Part C block monies should also be allocated to local government. Part B planning monies likewise should be passed through to local government on a similar 70% ratio. Categorical sections of the Act, Part D, for Corrections, and the Juvenile Delinquent Act of 1974, should be eliminated and all available monies allocated to Part C block grants. This trend towards increasing categorization tends to undermine comprehensive planning and decision making at the local level. The increased bureaucracy of the LEAA program at the State and Federal levels minimizes

our efforts to utilize limited resources to try to reduce crime which is, and always will be, a local problem.

Again, we reiterate our strong support for continuation of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

Sincerely,

HOWARD FUNKHOUSER,
*Chairman, Pacific County Law and Justice
Advisory Committee.*

JAY SKEWES,
*Chairman, Grays Harbor County Law and Justice
Advisory Committee.*

NATIONAL COUNCIL OF ORGANIZATIONS FOR CHILDREN AND YOUTH,
Washington, D.O., December 8, 1975.

JOHN L. MCCLELLAN,
*Chairman, Subcommittee on Criminal Laws and Procedures, Dirksen Senate
Office Building, Washington, D.C.*

DEAR CHAIRMAN MCCLELLAN: We are submitting this statement on S. 2212 as members of NCOCY's Youth Development Cluster. NCOCY is a coalition of two hundred national, State, and local organizations concerned with the welfare of children and youth. The Cluster is especially concerned about that provision of the bill which would repeal the maintenance of effort section contained in the Juvenile Justice and Delinquency Prevention Act of 1974.

Section 8 of S. 2212 calls for the deletion of Section 261 (b) of the Juvenile Justice and Delinquency Prevention Act of 1974. Section 261 (b) mandates that LEAA funding for juvenile delinquency programs must be maintained at least at the same level of funding as fiscal year 1972 programs (\$112 million). The repeal of Section 261 (b) would not only interfere with current and anticipated State and local initiatives in the area of juvenile justice but would have a negative impact on the increasing incidence of juvenile crime. In light of the fact that 75% of all serious crimes in this country are committed by youths under the age of twenty-five, we urge your Subcommittee to seriously consider the consequences should jurisdictions be forced to cut back on juvenile justice funding and thus curtail their juvenile justice programs.

In testimony presented to your Subcommittee on November 4, 1975, LEAA Administrator Richard Velde supported the deletion of Section 261 (b). Mr. Velde felt that, given the realities of reduced funding levels, LEAA needs flexibility in order to determine what the important funding priorities should be. We feel that such flexibility runs directly counter to the intent of Congress as expressed in the Juvenile Justice and Delinquency Prevention Act of 1974 which makes juvenile crime prevention a national priority in all States. Such flexibility is also questionable since the well-considered findings which were the basis for this legislation have not been ameliorated.

In his testimony before your Subcommittee, Mr. Velde also supported a five-year reauthorization for LEAA. When questioned about a two-year reauthorization for LEAA, Mr. Velde opposed it and claimed that such a reauthorization would cast future funding in uncertainty. He also maintained that, faced with a two-year reauthorization and the uncertainty of monies, jurisdictions would be hesitant to embark upon innovative programs. Mr. Velde concluded that a two-year reauthorization would disrupt the planning process and would change the very nature of LEAA from a long-range program to a short-term one. He also insisted that the two-year reauthorization would change the nature of projects funded by LEAA to less innovative ones. Although Mr. Velde's comments were made with regard to the renewal of authorizing legislation for LEAA, we feel that the deletion of Section 261 (b) from the Juvenile Justice and Delinquency Prevention Act would have a similar chilling effect on juvenile justice programs.

We hope that your Subcommittee will give long and careful consideration before passage of a provision which would repeal the maintenance of effort section contained in the Juvenile Justice and Delinquency Prevention Act of 1974.

Sincerely yours,

American Association of Psychiatric Services for Children; American Camping Association; American Parents Committee; American School Counselor Association; Big Brothers of America;

Big Sisters International; B'nai B'rith Women; Boys' Clubs of America; Child Welfare League of America; Family Service Association of America; National Alliance Concerned with School-Age Parents; National Conference of Christians and Jews; National Council of Jewish Women; National Jewish Welfare Board; National Urban League; National Youth Alternatives Project; The Salvation Army; United Neighborhood Houses of New York, Inc.

STATEMENT OF H. E. NICHOLS,
CHIEF JUSTICE OF THE SUPREME COURT OF GEORGIA

The inscription over the bench in the courtroom of the Georgia Court of Appeals reads: "Upon the integrity, wisdom and independence of the judiciary depend the sacred rights of free men."

The Latin inscription over the bench in the courtroom of the Georgia Supreme Court reads: "Fiat Justitia Ruat Caelum," and translates: "Let justice be done though the heavens fall."

The Constitution of the United States provides for an independent judiciary as do the Constitutions of all of the states of this great nation.

The aim of the proposed amendment to the Omnibus Crime Control and Safe Streets Act of 1968 prepared by the Conference of Chief Justices and introduced in the House of Representatives by Congressman Rodino as H. R. 8967 is to insure the continued independence of the judiciary at the state level.

In Georgia the funds granted to the judiciary for "judicial services," which term includes law clerks, court administrators, additional court reporters, and pretrial release programs for the current fiscal year, totaled \$223,057.00 as compared to the total grants of \$10,487,054.00 made by the Georgia Crime Commission, the agency responsible for distribution of the grants under this Act in Georgia. This is only two and one-half percent of the funds available.

While the providing of funds for law enforcement, record keeping, additional prosecuting attorneys, etc. is indeed needed, yet without aid to the judicial branch the delay between "arrest date" and "date of final adjudication" will continue to be extended and as has been so often said: "Justice delayed is justice denied."

The meager funds granted the judiciary under the present system of allocating funds under the Omnibus Crime Control and Safe Streets Act of 1968 illustrates the need for the proposed amendment.

A judiciary that must go—with hat in hand—begging the executive branch of government for the funds necessary to properly operate the courts will not long be independent.

A judiciary that must go—with hat in hand—begging the executive branch for funds necessary to properly operate will soon be required to make concessions to the executive branch and with such concessions could well go its integrity.

Regardless of its wisdom, a judiciary without integrity and independence cannot be depended upon to protect the rights of free men and no longer will the inscription read: "Let justice be done though the heavens fall." It will read: "Let justice be done if the executive branch of government concurs."

The need for funds to support the judicial functions of the judicial branch of state governments cannot be denied, and the amendment introduced in the House of Representatives as H. R. 8967 is the vehicle to accomplish such purpose and to insure the continued independence of the third branch of government.

THE SUPREME COURT,
Salem, Oreg., October 17, 1975.

HON. ROMAN L. HRUSKA,
*Member, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
U.S. Senate, Washington, D.C.*

DEAR SENATOR HRUSKA: I am writing to urge you and the other members of the Senate Judiciary Subcommittee on Criminal Laws and Procedures to support H. R. 8967, the State Court Improvement Act Bill.

The tremendous improvement in crime detection and apprehension and also the expanded rights of criminal defendants has deluged the courts of the

nation with rapidly rising caseloads. Local government resources to cope with this changing scene are limited and fragmented. The courts need substantial help in federal money so that new, modern and creative solutions to the problems can be developed and tested.

The proper source of such funds is LEAA, but the realities of politics place the courts at a great disadvantage in competing for funds with large well organized police and correction agencies who are aided by strong citizen support of the many private and public agencies working in these areas. Also, it is extremely difficult for people inexperienced in court management to properly evaluate courts projects compared to programs in law enforcement agencies.

A reasonable amount of LEAA funds and a reasonable amount of representation on the state planning agencies must be reserved for the courts if the judicial branch of government is to keep pace in this dynamic society. Your support of H.R. 8967 will be greatly appreciated.

Very truly yours,

(s) Kenneth J. O'Connell
KENNETH J. O'CONNELL,
Chief Justice.

STATEMENT OF KENNETH J. O'CONNELL, CHIEF JUSTICE, SUPREME COURT, SALEM, OREG.

Re H.R. 8967 (State Court Improvement Act).

The tremendous improvement in crime detection and apprehension and also the expanded rights of criminal defendants has deluged the courts of the nation with rapidly rising caseloads. Local government resources to cope with this changing scene are limited and fragmented. The courts need substantial help in federal money so that new, modern and creative solutions to the problems can be developed and tested.

The proper source of such funds is LEAA, but the realities of politics place the courts at a great disadvantage in competing for funds with large well organized police and correction agencies who are aided by strong citizen support of the many private and public agencies working in these areas. Also, it is extremely difficult for people inexperienced in court management to properly evaluate court projects compared to programs in law enforcement agencies.

A reasonable amount of LEAA funds and a reasonable amount of representation on the state planning agencies must be reserved for the courts if the judicial branch of government is to keep pace in this dynamic society. The judiciary of Oregon strongly support H. R. 8967 as a needed step in the improvement of the conduct of the LEAA program.

STATE OF NORTH DAKOTA,
Bismarck, N. Dak., October 21, 1975.

Hon. MILTON R. YOUNG,
U.S. Senator, Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR YOUNG: I have been asked by Chief Justice Ralph J. Erickstad to communicate my thoughts to you concerning H.R. 8967, the State Court Improvement Act, which proposes to amend the Omnibus Crime Control and Safe Streets Act of 1968.

I am chairman of the North Dakota Combined Law Enforcement Council which is the state planning agency and allocates federal funds pursuant to the Act. I have served as chairman of the Council since taking office as Attorney General on January 1, 1973 and during my chairmanship, from time to time, the question of adequate representation by and funding for the judicial branch of government has been presented. I am not satisfied that this serious question receives proper attention under federal law and regulations.

Neither am I satisfied that H.R. 8967 adequately speaks to the question. Unfortunately I see H.R. 8967 as having the potential to create unnecessary friction among the respective elements of the criminal justice system within the existing structure for allocating federal monies through the Law Enforcement Assistance Administration and the state planning agencies. I believe that more federal money should be available to the state judiciary to improve their

capability to meet the serious criminal justice problems, however, I am more inclined to support a separate and distinct structure for allocating this money rather than doing it through LEAA. I am prompted to this view because of the status of the judiciary as a separate but equal branch of government and I believe that their independence should be supported and preserved. In short, I support increased funding for the state judiciary, but I would not necessarily support such increased funding through the present LEAA structure.

Sincerely yours,

ALLEN I. OLSON,
Attorney General.

THE SUPREME COURT OF OHIO,
Columbus, Ohio, October 7, 1975.

HON. JOHN MCCLELLAN,
*U.S. Senator, Senate Office Building,
Washington, D.C.*

DEAR SENATOR MCCLELLAN: The Conference of Chief Justice has adopted certain recommendations which it felt are designed to eliminate the discrimination that now exists in the disposition of LEAA funds to the courts and to improve the courts in the administration of criminal justice.

As you probably know, Congressman Rodino has now introduced a bill, H.R. 8967, which was drafted by the Conference of Chief Justices, and is supported by the members of that Conference. The bill has been referred to the Committee on the Judiciary and, as I understand it, will go to the subcommittee for hearings in the future.

I would appreciate very much you taking an interest in incorporating the provisions of that piece of legislation in the LEAA Act now before the Subcommittee on Criminal Laws and Procedures, of which you are Chairman. If the provisions of the Rodino bill meet with your approval, the Conference of Chief Justices would appreciate your support of those provisions as amendments to the LEAA Act.

I would be pleased to discuss with you these proposals at any time, in person or on the telephone, at your convenience.

With warm regards, I remain

Sincerely yours,

C. WILLIAM O'NEILL,
Chief Justice.

KAYSINGER BASIN LAW ENFORCEMENT ASSISTANCE COUNCIL

Resolution 7570-1

Witnesseth:

Whereas, the Osage Council on Criminal Justice (OCCJ) is the regional planning unit responsible for administering and implementing the programs of the United States Law Enforcement Assistance Administration (LEAA) through the Missouri Council on Criminal Justice, and

Whereas, the Osage Council on Criminal Justice undertakes the foregoing responsibilities for the counties of Bates, Benton, Cedar, Henry, Hickory, St. Clair, and Vernon and also all municipalities in these counties, and

Whereas, the Osage Council on Criminal Justice firmly believes that the programs of the Law Enforcement Assistance Administration have immeasurably aided the criminal justice efforts in this primarily rural area, and

Whereas, the LEAA Program is now up for reauthorization, and

Whereas, the Osage Council on Criminal Justice desires to assist the criminal justice system of this area in the future. Now, therefore be it

Resolved: That, for all of the aforesaid reasons the Osage Council on Criminal Justice casts its whole-hearted support to the reauthorization of LEAA with the hopes of increased planning fund assistance, the same or greater level of action project funds and emphasis on the point that the LEAA legislation should be liberalized as to permit project funds to be spent in a manner determined by local problems and needs.

Passed and adopted this 2nd day of October, 1975

R. J. GORDON, *Chairman, OCCJ.*
ROBERT N. BRESHEARS, *Secretary, OCCJ.*

Attest:

OFFICE OF THE COURT ADMINISTRATOR,
STATE OF UTAH,
Salt Lake City, Utah, November 3, 1975.

Senator JOHN L. McCLELLAN,
*Chairman, Subcommittee on Criminal Laws & Procedures, Committee on the
Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR McCLELLAN: On behalf of the Judicial Council of the State of Utah, the body charged by state law with the general management responsibility of the trial courts of the state, we wish you and each member of the subcommittee to know of our firm support for the approach to funding federal financial assistance to state courts contained in HR 8967. We understand your subcommittee is considering this measure as a part of the LEAA oversight hearings, now in progress.

This measure would be a historic step in preserving and strengthening our constitutional form of government. We urge your subcommittee's prompt and favorable action on this measure.

Sincerely,
For the Judicial Council:

RICHARD V. PEAY,
State Court Administrator.

SUPREME COURT,
STATE OF SOUTH DAKOTA,
Pierre, S. Dak., October 17, 1975.

Hon. JOHN L. McCLELLAN,
*Chairman, Senate Judiciary Subcommittee, on Criminal Laws and Procedures,
Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR McCLELLAN: The Chief Justice of the South Dakota Supreme Court has asked me to relay to you my own feelings as a State Court Administrator regarding aspects of LEAA funding and subsequent involvement with the judiciary.

First and perhaps foremost is the serious question of an agency within the executive branch making programmatic decisions for the judiciary. Many such decisions are in direct contradiction with basic concepts of judicial branch independence and established state funding procedures.

Secondly, as a result of the state LEAA being under the direct control of the executive branch, the State Planning Agency staff cannot render impartial, objective decisions regarding funding priorities. The Governor appoints all members of the Commission and the full time Planning Agency staff members are employed by the state's Department of Public Safety. This line of appointive authority, and thus allegiance, tends to skew priorities in favor of the executive branch. As a specific illustration of this point, in the fall of 1974 a program was proposed to the South Dakota Crime Commission by an executive branch agency. The program was opposed as being dysfunctional to South Dakota's Unified Court System. The judiciary's four commission members succeeded in convincing the commission that the program should not be funded. The program was voted down. However, at the next commission meeting the program reappeared on appeal with a supporting letter from the Governor. The grant obviously passed.

There is also another aspect of state LEAA courts' funding which is subtly applied and adversely affects the judiciary. This being an apparent conscious effort of applying intimidation towards the judiciary for the purpose of achieving LEAA ends. Again, as illustration of a South Dakota situation, judiciary grants and program requests, after being presented to the state LEAA often receives "strings attached" requirements. The State Planning Agency accepts our requests but pointedly refer that such requests would be more acceptable if our courts' system had a judicial planner. This being in line with the recent LEAA national effort to provide funds for a full time courts' planner within states. The result being not only intimidation but a lack of understanding by both the federal LEAA regional representatives and state LEAA staff as to South Dakota's judicial planning needs. Within our unified court system, statewide planning responsibilities are administered by the State Court Administrator and that office's research and development staff. The related problem being that the LEAA definition of a "judicial planner" is a grantsman.

There is also a secondary, but none-the-less important, problem as relates to state LEAA structure and the judiciary. Out of some 22 members on the Crime Commission, the judiciary in our state has four representatives. And as occurs where funds are in demand from various governmental agencies, a constant tug-of-war ensues. One in which the judiciary cannot realistically compete.

I have listed some of the more pertinent aspects of how current state LEAA funding is dysfunctional to our judiciary. I now offer several constructive suggestions: (1) Membership of state LEAA planning commissions should have a fixed number of at least one-third judicial representations, (2) The judicial representatives should be appointed with removal authority by the state's highest judicial official or body, (3) A fixed amount of LEAA funds of at least one-third of each state's allotment should be set aside for courts' use. This would not include funds for the prosecutor or defense function, (4) The judiciary after receiving its allotted share would have the ability to expend such funds in compliance with the courts' own plans without the necessity of returning to the state LEAA staff or commission for continual expenditure approval.

This procedure would allow for flexibility in meeting court needs without encroaching on judiciary authority in determining and implementing its own programs.

In closing, the utilization of federal LEAA funds for the purpose of upgrading the judicial system is not at issue. What is being suggested is a mechanism for using these funds so as to allow for third branch independence without direct executive branch involvement within the judiciary's internal affairs.

Respectfully yours,

ELLIS D. PETTIGREW,
State Court Administrator.

FIFTH DISTRICT PLANNING AND DEVELOPMENT COMMISSION,
Pierre, S. Dak., November 26, 1975.

Senator GEORGE MCGOVERN,
Dirksen Senate Building,
Washington, D.C.

Dear SENATOR MCGOVERN: The Congress currently has under review extension of the Crime Control Act of 1973, (P.L. 93-83) This Act established the Law Enforcement Assistance Administration and provided funding to carry out a comprehensive and coordinated program for law enforcement.

In your consideration of extending this Act, I would ask you to consider the following. These comments are based upon the operational experience of the District Five Commission. The District Five Commission is the largest regional commission in South Dakota and the second largest regional commission in the nation.

1. Reauthorize the LEAA program for an additional five (5) years.
2. Increase the required pass-through of Part B planning funds from 40 percent to 50 percent.
3. Require a majority of local elected officials on regional planning boards.
4. Require a majority of local elected officials and State legislators on State planning boards.
5. Eliminate categorical representation from regional and State planning boards.
6. Reduce or repeal Part E categorical sections of the act and allocate these funds to Part C block grants.
7. Increase the block grant portion of Part C funds from 85 percent to 90 percent.
8. Do not establish new categorical sections such as has been proposed for the courts.
9. Do not establish a required pass through of planning and/or action funds to urban cities and counties.

Thank you for considering these points. If you have any questions, do not hesitate to contact me.

Sincerely,

DENNIS W. POTTER,
District Director.

STATEMENT OF EDWARD B. PRINGLE, CHIEF JUSTICE, SUPREME COURT OF COLORADO
AND PAST CHAIRMAN, CONFERENCE OF CHIEF JUSTICES

Mr. Chairman and Distinguished Members of the Committee: May I express my complete agreement with the statements made before the Committee by Chief Justice Heflin of Alabama and Marion Opala, the Judicial Administrator of Oklahoma when testifying before the Committee with respect to the renewal of the LEAA which is being considered under S-2212.

As pointed out, measures which will alleviate the problems raised by Chief Justice Heflin and Mr. Opala, are incorporated in HR 8967 sponsored by Chairman Rodino of the House Judiciary Committee.

When I was Chairman of the Conference of Chief Justices two years ago, I received complaints from many Chief Justices about the country that they were having a great deal of difficulty receiving not just a fair share of LEAA money, but anything more than a pittance. In some cases, LEAA money was being withheld from the judicial system because either the Governor or other members of the State Planning Committees were dissatisfied at some decisions made by the Supreme Court of that state. In other instances, where there was any judicial representation at all on the State Planning Agency, it consisted of a Justice of the Peace or someone who had no relationship with the judicial policy making functions of that state. Representation on the State Planning Agencies was either exclusively determined by the Governor or by a Legislative Act and very often resulted in no judicial representation. Grants were made in some states which completely violated the principle of the unified court system to which all of us in court reform have been dedicated over these various years.

I have worked very diligently in the American Judicature Society, with the American Bar Association, with the National Center for State Courts, and with other groups concerned with proper court administration to try to persuade those in authority in various states that court systems must be responsible to the people for the administration of their operation and that this can only be done when the people can in fact point to a group or an individual and say, "The buck stops here."

In many state courts which had attempted to work out the principle of the unified court system, they were undermined by the manner in which the State Planning Agencies allocated their funds. I thought at that time that by some very simple rules and regulations Mr. Santarelli, who was then LEAA Administrator, could alleviate these conditions. In a rather discourteous manner, he advised me that he was not going to do anything about the situation and that if I thought the Chief Justices could do anything about it then let them try. As a result, I appointed a committee to explore the avenues for placing the views we had into legislation, and I asked Chief Justice Heflin of Alabama to chair this committee. He has, of course, explained to you the stand of the Conferences of Chief Justices of the United States.

I am now more than ever convinced that only legislation can solve the problems because of recent events in my state. Up to that time, I had said in various meetings around the country and in Washington the problem was really not mine because I had no problems in my state as I had very substantial representation on the Planning agency and no funds came to the judiciary without my approval. This preserved the unified court system in our state. I said I was concerned for others whose independence was being threatened by being placed in a subservient position in their states with respect to LEAA funds.

Several weeks ago I suddenly found that in my own state a new Governor had appointed a new committee without any consultation with me and there was not a single judge on that committee. I was stunned, and when I spoke my mind to the Governor about it, he expressed his deep chagrin and blamed it on staff. But that is always the problem—staff acts when it is not constrained by legislation. We found at the very first meeting of the agency that training grants for the judiciary, which has always been a non-controversial subject, suddenly became a hot issue and that the new members of the commission had a great many other priorities on their minds. Although I have now been assured by all the members of the Committee that they will concern themselves with the judiciary's views, there still remains the fact that the only representative on that committee of 26 is the State Court Administrator. I am concerned that our view with respect to the whole system of criminal justice, as

well as the amount of funds which may be allocated to us, will not be heard when the State Planning Agency deliberates.

I must say that Mr. Velde has been extremely cooperative. I like him. I appreciate his attitude, but he too is constrained by the present Legislature and if he leaves, as all government administrators do sometime during their careers, I don't know who the next administrator will be. This is why legislation is so sorely needed.

Thank you all for your interest.

NASSAU COUNTY CRIMINAL JUSTICE COORDINATING COUNCIL, MINEOLA, N.Y.

THE CRIME CONTROL ACT OF 1976 (S. 2212): RENEWAL IMPLICATIONS FOR NASSAU COUNTY

The Crime Control Act of 1973, originally titled "Omnibus Crime Control and Safe Streets Act of 1968", is to be considered for re-authorization in 1976.

The Crime Control Act is administered by the Law Enforcement Assistance Administration of the Department of Justice. Funds flow to Nassau County through block grants made to the New York State Division of Criminal Justice Services, which in turn makes project-by-project funding allocations within a present regional funding level limit, to Nassau County.

This act has provided a flow of funds to localities such as Nassau County for the purposes of improving crime control through innovations in Criminal Justice procedures. Over the six year period that this act has been in effect, \$4 billion has been distributed to federal, state and local criminal justice agencies.

More specifically, Nassau County has received approximately \$7 million over this same period, of which \$1.25 million went to the Police Department, \$1.15 million to Probation, \$1 million to Corrections, \$2.3 million to the Youth Board, \$7 million to the District Attorney's Office and \$.3 million to Social Services. Expenditures for the current fiscal period over this same range of County Departments, will go over \$2 million. These amounts represent a considerable portion of the allocations required to upgrade county services in criminal justice.

Many of these projects have been incorporated into existing county programs on the basis of their success. Such programs, as Operation Midway in the Probation Department, have been extensively evaluated by third party experts, and continued with county funds on the strength of demonstrated merit.

In the early stages of funding through the Crime Control Act, funds flowed freely, and with few guidelines, rules or planning requirements from the federal or state government. This resulted, in many cases, in the now often criticized practice of investing large amounts of money in police equipment such as helicopters, patrol cars, radios and related materials. While these types of expenditures were warranted in many localities, this overall trend in funding resulted in little impact on the crime problem. While the initial years of LEAA funding resulted in crime increasing at a decreasing rate, the rates of the last several years have again begun to increase.

Two reactions seem to have set in as a result of both the alleged irresponsible expenditures of the first years, as well as presumed recent ineffectiveness of crime control procedures. The first reaction is to denigrate the entire effort of crime control, in light of the ineffectiveness of the large amounts of funding and planning that have taken place to date. The second effort is to tighten up both federal and state rules, guidelines, and plans, to more narrowly define crime control efforts around demonstrable results.

The problem with the first alternative is that which is inherent in any federally initiated funding program. As originally conceived, the Crime Control Act was to give resources to localities for meeting crime problems. However, in 1968 and the following several years, few localities were ready to take on the sophisticated process of examining the local criminal justice process and contributing factors to crime in their home communities. For instance, only in 1975 have concrete and mandatory federal and state guidelines as to the composition of local planning documents been issued. In addition, the methodologies of planning for crime problem intervention are far from established professional procedures.

To defund the Crime Control Act, while admitting that localities have only now begun to initiate the planning and community control needed to meet these problems, is to admit the sterility of federally initiated programs. The second reaction, to tighten up state and federal guidelines, rules and planners has, in fact, already taken place. We are in agreement with the resolution adopted by the National Association of Counties, Criminal Justice and Public Safety Steering Committee at their May 2, 1975 meeting in St. Louis, Missouri. At that time, the committee expressed its findings that increasingly, "the Safe Streets Act takes on the character of a categorical grant program. These limitations are making it increasingly difficult for local governments to utilize the funds to plan and implement local crime control programs". In addition, NACo has endorsed the following principles:

1. The federal government shall continue to assist states and units of local governments in reducing crime and improving criminal justice.

2. Block grants shall be extended through the states to cities and counties to allow these units of government, which have primary functional responsibility for the criminal justice system, to plan, allocate funds and carry out a comprehensive program to reduce crime and improve the criminal justice system.

3. Elected local officials shall comprise a majority of state, as well as local, regional planning boards.

4. Legislative provisions of the crime control act, which focus funds on specific categorical subject areas of programs, shall be reduced or repealed and the monies allocated for these purposes added to the block grants to states and units of local government.

The points of this resolution describe a third alternative strategy for meeting the crime problem through continuation of the Crime Control Act of 1973. The principle provisions are to continue and expand funding flow to localities to enable them to meet local crime priorities as designated by regional planning boards, such as the Nassau County Criminal Justice Coordinating Council. While this may make demonstrable crime control successes much more difficult to document, it is our feeling that Congressional interest in the quality of law, order and justice in America should be more positively focused on increasing the capability of the system to be efficient and humane, and not demand a reduction in crime, dollar-for-dollar. By allowing local community crime councils, through block grants to localities, to determine what improvements in their system of criminal justice are warranted in the interest of efficiency and humaneness, the Crime Control Act may improvise a more realizable goal of assuring the quality of criminal justice through monitoring, evaluation and control of local criminal justice systems.

It has been pointed out, that the federal government does not require the health field to eradicate cancer as a condition for funding, nor does it require the educational system to maintain a specified intellectual level of excellence in America. It does so because those services are the business of government, that which the people want to collectively provide to themselves. Criminal justice must be treated on the same level. Criminal Justice Services of sufficient quality and effectiveness to meet local demands are required for the communities of America. To impose federal and/or state guidelines, rules and plans that restrict the ability of localities to make such changes in their criminal justice systems, because arbitrarily determined crime control effectiveness measures have not been successful, is to assume that criminal justice is not a social process that requires development and guidance by local communities.

New York State has made considerable progress toward allowing such communities as Nassau County to plan and implement programs to meet local priorities for improvement in the criminal justice system. New York State must pass through grants to localities on a block grant basis, permit local planning to determine criminal justice priorities, and we must be allowed to continue the present rates of funding until at least 1981.

In summary, we endorse the NACo proposed amendments to the Crime Control Act of 1973. It is essential therefore, that two critical issues for Nassau County be upheld in these proposed amendments:

1. The principle of block grants to localities, with funding based on a locally-developed and priority-related plan, must be maintained (Amendment 4).

2. The provision of funds for evaluation and monitoring by localities to increase county capability for controlling the criminal justice system (Amendment 5).

Adherence to these amendments, as well as to the general principle of local priority determination and planning for criminal justice, will allow the flexi-

bility and systematic development of the criminal justice system that may eventually contribute to some of the long-sought solutions to the rising crime rates in American Society.

ARTHUR RANDALL,
Executive Director.

COURT OF APPEALS OF KENTUCKY,
Frankfort, Ky., October 20, 1975.

Senator JOHN McCLELLAN,
*Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
Dirksen Senate Office Building, Washington, D.C.*

DEAR CHAIRMAN McCLELLAN: At the request of Chief Justice Heflin of the Alabama Supreme Court, who is chairman of the Federal Funding Committee of the National Conference of State Chief Justices, I am communicating to you and your Subcommittee my view concerning the proposals contained in the Rodino Bill (H.R. 8967), the provisions of which you may consider in your hearings conducted on the LEAA Act.

Although I have had respectful and courteous consideration extended by the officials of our state Department of Justice and the regional Atlanta office of LEAA, the strictures presented in the current LEAA Act and the national administration of the program have left the judicial branch in the affected states in a disfavored position. While the entire emphasis has been placed on apprehension at one end of the spectrum and rehabilitation at the other end of the spectrum, the throat, so to speak, through which all the numbers must pass has been regarded more as an appendage than as an independent, coordinate, and coequal branch of general government. It is, therefore, my conclusion that those changes in funding, so far as the court are concerned, proposed by the Rodino Bill are salutary and should be adopted.

The foregoing statements, nevertheless, should not be taken as any endorsement of federal paternalism or for supervision in the affairs of state courts. Not only the doctrine of separation of powers, but also our constitutional principles of federalism should by no means be neglected.

I deeply regret that I will not be able to be personally present to expand upon these concepts and answer any questions the Subcommittee might have. The pressure of our docket here, however, precludes my attendance.

I am not prepared to endorse a designation of any outside group or organization as an agent of Congress to examine and evaluate state court systems. In my view, that function should rest and remain with the Congress if it deems such evaluation necessary. Neither do I endorse a Damocles sword approach by virtue of which the formulation and application of so-called national "goals and standards" could cause the abrupt cessation of productive state programs undertaken and administered in good faith to the satisfaction of the proper authorities of Congress.

It seems to me the impact of proposals that more litigation will be fed into the state judicial systems from the federal system illustrates the justice of the request of the state judicial systems for financial assistance to upgrade and adapt themselves to current events and anticipated increases of responsibility.

May I express my appreciation for being afforded the right to express my views. If the Subcommittee deems it proper, this statement may be made part of the record.

Yours very truly,

SCOTT REED,
Chief Judge.

DISTRICT OF COLUMBIA COURTS,
JOINT COMMITTEE ON JUDICIAL ADMINISTRATION,
Washington, D. C., November 3, 1975.

Hon. JOHN L. McCLELLAN,
*U.S. Senate, Subcommittee on Criminal Laws and Procedures, Dirksen Senate
Office Building, Washington, D.C.*

DEAR SENATOR McCLELLAN: I should like to draw your attention to the provisions of H.R. 8967, now pending in the House Committee on the Judiciary, and respectfully request your support of the companion bill, which will be presented to the Senate. This legislation has the support of the National Conference of State Chief Justices, whose representatives have testified before the

Subcommittee on Criminal Laws and Procedures of the Senate Committee on the Judiciary.

The provisions of the bill would insure that the judicial, rather than the executive branch of state governments, should exercise major control over what funds are allocated by the Law Enforcement Assistance Administration for the courts of such states. The proposed legislation would make state courts responsible for their own planning and the oversight of expenditures to improve such judicial systems.

Thus the principles embodied in H.R. 8967 are not only consistent with the historic doctrine of the independence of the judiciary from other branches of the government, but also in harmony with D.C. Code § 11-1743, which vests responsibility for the preparation and submission of the annual budget for the local courts in the Joint Committee on Judicial Administration.

Faithfully yours,

GERARD D. REILLY, *Chairman.*

RESOLUTION

Whereas, the National Conference of State Trial Judges is appreciative of the Congress of the United States for its criminal justice program by which financial assistance has been channeled to the States to augment State and local sources in improving the administration of justice within the State; and

Whereas, it is commendable that such criminal justice program has been administered by the Law Enforcement Assistance Authority without an attempt to impose mandatory federal standards upon State court systems; and

Whereas, in the administration of such criminal justice program by State executive planning agencies of the LEAA there have surfaced serious structural and procedural defects, among which are those revealing that State court systems and State judges have been placed in an arena of competition with executive agencies of the State government, including police, correctional, defense and prosecutorial groups, which competition is destructive of the separation of powers doctrine and the independence of State judiciaries, and which competition also fosters the exertion of political pressures on State judges; and

Whereas, because of such serious structural and procedural weaknesses State court systems have not received an adequate share of financial assistance as measured by their critical responsibilities, with the shocking revelation that the States' share of LEAA funding was only 5.12% in the fiscal year 1971 and declined to 3.61% in the fiscal year 1973, in spite of calls by the national Law Enforcement Assistance Authority for State planning agencies to greatly increase the funding allocated to State courts. Now, therefore, be it

Resolved by the National Conference of State Trial Judges Duly assembled in Plenary Session on the 16th day of August, 1974:

1. 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.

SUPREME COURT OF HAWAII,

Aliiolani Hale, Honolulu, November 3, 1975.

HON. JOHN MCCLELLAN,

*Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: It has come to my attention that the cut-off date for receiving statements on the Rodino Bill (H.R. 8967) is November 4, 1975. While I would have liked to have written a longer statement, I have read the statement prepared by Chief Justice Howell Heflin of Alabama, dated October 22, 1975, relating to said bill and would like to inform you that I support his statement in its entirety. The Rodino Bill represents an improvement in the operation of the LEAA program.

Yours truly,

WILLIAM S. RICHARDSON,
Chief Justice.

SUPREME COURT OF RHODE ISLAND,
Providence, R.I., October 10, 1975.

HON. JOHN McCLELLAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR McCLELLAN: It is my understanding that the Senate Subcommittee on Criminal Laws and Procedures, of which you are a member, will soon meet to consider S. 2212, the LEAA authorization bill. I am sure you are aware that the Chief Justices of the 50 states, acting through the Conference of Chief Justices, have repeatedly expressed dissatisfaction with the distribution of funding under the existing LEAA formula; the paramount objection being the disproportionately small portion of LEAA funding which is allocated to state courts.

Measures which would largely alleviate those problems are incorporated in HR 8967 now pending in the House Judiciary Committee. The Conference of Chief Justices has worked actively for that bill and maintains a continuing interest in it. I am writing to request that you support the steps delineated in HR 8967, particularly as they relate to funding, and keep them in mind as you consider S. 2212 in the coming weeks.

The concern I have is more than just a request for additional funding for the sake of more funding. Since the initiation of LEAA programs, the bulk of the funding has gone to police agencies. The resulting increase in police capabilities has burdened state courts with unprecedented case loads. If this case load is to be handled in a manner effective enough to give credibility to the justice system, additional funding must be forthcoming.

Thank you for your assistance in this matter. If I may be of further assistance, do not hesitate to contact me.

Sincerely,

THOMAS H. ROBERTS,
Chief Justice.

STATEMENT OF THOMAS H. ROBERTS, CHIEF JUSTICE, SUPREME COURT OF
RHODE ISLAND

For a number of years the opinion has been growing among state court officials that the present LEAA program is seriously flawed. Intended to improve and expedite the criminal justice process throughout the United States, the program has not distributed its efforts evenly across the criminal justice continuum. The disproportionate funding of police projects, with the accompanying increase in prosecutions, and the earmarking of money for corrections, has placed ever increasing burdens on state court systems without a concomitant increase in resources. The obvious consequence is growing backlogs in state courts with the accompanying discrediting of the justice process.

The Conference of Chief Justices has been instrumental in the development of recommendations intended to redress this imbalance. Most of those recommendations are incorporated in HR 8967 now pending in the House Judiciary Committee. Although that bill is obviously not before this committee today, I would ask that the members keep its recommendations in mind during these hearings.

The courts in Rhode Island have never received more than 3% of the states block funds. I know the situation in other states is very similar. If we are to carry out our responsibilities in the justice system, the level of support from LEAA must be increased on a lasting and predictable basis so we may develop long-range programs. It does no good to improve only half the system. If the courts cannot meet their responsibilities, improvement in the rest of the system will have only minimal impact on crime.

SUPREME COURT OF MISSOURI,
Jefferson City, Mo., October 13, 1975.

HON. JOHN L. McCLELLAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR McCLELLAN: I am writing in support of the provisions of H.R. 8967, introduced by Representative Peter Rodino of New Jersey, which would create a new Part F in the LEAA Act (PL 93-83) for the purpose of providing separate funding for state and local courts.

It is my belief that this proposal will, if enacted, go a long way toward alleviating many of the unique problems which the states' judiciary have ex-

perienched with the LEAA program. Particularly important are the assurances of the maintenance of a separation of powers between the state executive and judiciary and the establishment of some stability in funding levels.

As the level of funding for the LEAA program in the state began to level off, the internal pressures on the program increased. There have been several consequences of these pressures:

(1) Increasingly the courts have been drawn into the struggle for funding among the other criminal justice component agencies. Thus, efforts to get funding increase the potential for compromising the integrity and independence of the courts.

(2) There has been an increased emphasis upon quick, visible results rather than on longer range solutions to the more fundamental problems. This emphasis has given the police, prosecution and delinquency agencies an advantage because of the longer term nature of needed changes in the courts area.

(3) The perpetual uncertainty of federal funding is compounded by the annual struggle by all applicants for a slice of the LEAA funding, making multi-year funding commitments quite difficult.

By grouping courts with prosecution and defense, it has been possible to create the illusion that the local courts are getting funding when they are not in most parts of this state.

Organizationally, the state judiciary is dealing with the executive branch at the division level within a department. The State Planning Agency (SPA), which is designed to deal with executive branch agencies and local units of government is not able to deal effectively with the courts where issues of separation of powers are involved. The long delays in implementing the CDS OBTS/CCH project in Missouri are evidence of this problem.

With the natural maturing of the program, some changes have inevitably occurred, such as increasing bureaucratization and the development of pockets of increasingly more sophisticated grantsmanship in some agencies. The little recognized consequence is that small agencies, like local courts, find it increasingly more difficult to compete for funding.

The relationship between the SPA and some of the legislative committees of the General Assembly in Missouri has, on occasion, been strained and the problems thus created have affected all participants in the program.

Finally, the instability of the program has resulted in a high turnover rate among key personnel in both the LEAA Regional Office and the SPA. In the last 30 months, Missouri has had three LEAA State Representatives, four SPA court specialists and both offices have had similar turnover in other key positions. This has made it difficult to maintain good professional relationships and a solid basis for implementing projects.

The Missouri Supreme Court has been the recipient of several LEAA grants and some of our administrative staff have had considerable experience with the program in Missouri. They find the proposed legislation a vast improvement. The types of programs and projects detailed in section 476 (b) of H. R. 8907 are responsive to the varied problems which we face in the Judicial Department in Missouri. Furthermore, administrative provisions proposed in other sections of the bill seem to be workable.

We are currently working with the lower courts on several projects to improve the operation of all of the courts in Missouri. The improvements afforded by this proposal will be most welcome in this state.

I strongly urge your support of this proposal and I will be contacting members of the Missouri delegation seeking their support for the proposal at the appropriate time.

Thank you for your consideration of this endorsement and I hope you will see fit to support H.R. 8907.

I respectfully request that this letter be considered as a statement from me on the subject before your subcommittee and that it be made a part of the record.

Sincerely,

ROBERT D. SEILER,
Chief Justice.

UNITED STATES SENATE,
Washington, D.C., October 7, 1975.

Hon. JOHN McCLELLAN,
U.S. Senate, Dirksen Building,
Washington, D.C.

DEAR SENATOR McCLELLAN: Recently I testified before the Judiciary Subcommittee on Criminal Laws which you chaired. That hearing was devoted to consideration of the LEAA program, and I appreciated very much the opportunity to speak and especially to discuss the merits of S. 1598, which I introduced.

Just today I received a letter from Attorney General Ted Sendak of Indiana endorsing S. 1598. I was delighted to receive his comments since I have a great deal of respect for the manner in which he has conducted the office of Attorney General in his State. For this reason, I am pleased to forward to you a copy of his letter and to ask that if possible his comments be entered into the record of the proceedings before the Subcommittee.

Thank you for the courtesies extended to me.

Sincerely,

ROBERT MORGAN.

Enclosure.

STATE OF INDIANA,
Indianapolis, Ind., September 30, 1975.

Hon. ROBERT B. MORGAN,
U.S. Senator, Dirksen Office Building,
Washington, D.C.

DEAR SENATOR MORGAN: Please convey to your colleagues my enthusiastic endorsement of S. 1598 because of its constructive approach towards fiscal responsibility in the administration of the L.E.A.A. programs in the various states by permitting each state legislature to determine the state official or agency it deems most appropriate and capable of handling the state's responsibilities in that area.

Best personal wishes.

Respectfully yours,

THEODORE L. SENDAK,
Attorney General of Indiana.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 30, 1975.

Hon. JOHN McCLELLAN,
Chairman, Subcommittee on Criminal Law and Procedures, Dirksen Senate
Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The enclosed comments have been received from my constituent, Mr. Charles Shannon, concerning the Law Enforcement Assistance Administration. I hope your staff will consider his extensive suggestions and comments in light of the reauthorization of this program.

With best wishes,

Sincerely yours,

TIMOTHY E. WIRTH.

DENVER REGIONAL COUNCIL OF GOVERNMENTS,
Denver, Colo., October 6, 1975.

Hon. TIMOTHY WIRTH,
U.S. House of Representatives, Cannon Office Building,
Washington, D.C.

DEAR MR. WIRTH: Hearings on the reauthorization of the Law Enforcement Assistance Administration (i.e. LEAA) program will commence soon. As a Congressional representative serving part of Colorado Planning and Management District Three, for which this office provides planning services, I would like to convey to you some of my impressions and opinions of the program.

I have been involved with the Law Enforcement Assistance Administration Program at the local and state levels for approximately four years. My comments are not necessarily those of my employer, the Denver Regional Council of Governments. In addition, my comments are based primarily on my experience in Colorado and to a lesser extent the State of Minnesota. I was a research assistant to the Minnesota Governor's Commission on Crime Prevention and Control for approximately eight months and have been employed by the Denver

Regional Council of Governments for three and a half years, two and a half of which were as a Criminal Justice Planner and the past year as Director of the Criminal Justice Planning Program. In addition, I am the 1975 President-Elect of the Colorado Association of Regional Criminal Justice Planners.

The LEAA program has experienced various levels of success and failure. My comments will address some of those successes and failures as well as the program's organizational framework for administration and planning.

A fundamental limitation of the yearly Colorado Criminal Justice Plan (i.e. responsible for the allocation of LEAA funds), has been the inability to systematically develop priorities based on need. Problems exist throughout the State in a disparate fashion, subsequently inhibiting the ability to identify needs and priorities in a consistent and comprehensive manner. Local conditions differ substantially which minimizes the value, utility and meaning of a State Plan. In my judgment, development of a State Plan does not accurately address local and regional problems and priorities. State planning is appropriate where administrative and organization frameworks apply throughout the State (e.g. a State Court System). The general area of corrections is an area that presumably requires both statewide planning for state correctional institutions and local planning for community-based corrections. Local and regional planning should be emphasized for police and other supportive social service agencies.

LEAA's major impact has been on upgrading the capabilities of the criminal justice system, which has resulted in some problem solving but has also created problems. For example, the major positive impacts to the police component of the criminal justice system, include: 1. Upgrade of communication and information systems; 2. Improved and more extensive training, particularly specialized or advanced as distinct from basic training; 3. Increased personnel; and 4. Increased and expanded police community relations programs.

Improved police communications systems, specialized training, more manpower, and community relations programs all have the effect of bringing about greater awareness to the crime problem and subsequently increasing the reporting of crime. Further comment on the four examples is provided.

1. Communications systems increase the likelihood of better and more appropriate information flow, thus increasing the likelihood of criminal detection and apprehension.

2. Specialized police training often leads to the design and implementation of specialized programs and projects that make use of personnel with specialized training. Examples of these programs include family crisis intervention units, designed to effectuate a reduction in the number and/or severity of aggravated and other assaults within a domestic environment and juvenile delinquency units, usually directed at a variety of problems. The result and effect is usually to identify and deal with a clientele or segment of the public for which very limited contact and involvement previously occurred in essence to identify a new clientele for police contact.

3. Increased manpower has also increased the likelihood of greater public contact thus the likelihood of more reporting of crime.

4. Police community relations programs may promote better police community relations but it also has the effect of bringing more of the crime problem to the attention of the police.

In summary, police upgrade as part of the criminal justice system has increased the capability of the system to identify more crime. Without this clear understanding, some very misleading conclusions can be drawn regarding the increase in crime at a time of increased LEAA funding.

Systems upgrade through LEAA has brought about a greater awareness to the problem of *actual* as distinct from *reported* crime which is documented through Uniform Crime Reports (UCRs). Systems upgrade has, in my judgment, drastically reduced the gap between *actual* and *reported* crime. That is one reason (i.e., the most pertinent) to explain why there is often a high positive (i.e. often over 8) correlation between crime occurrence and police expenditures and crime occurrence and police personnel. It is impossible for me to believe that there is a causal relationship between increased police expenditures and/or increased police personnel and crime occurrence. What is actually happening is that the gap between *actual* and *reported* crime is lessening.

Related to system upgrade is the issue of projected or anticipated crime without LEAA funds. It is my judgment that LEAA is responsible for the prevention of some crime . . . how much, I am not at all certain. It is my firm belief,

that, *actual* crime would have been higher without LEAA. The issue is blurred, however, because of the related issue of *actual* and reported crime disparities. I am even more certain that LEAA's police upgrading impact has greatly increased the systems capability to identify crime and as such LEAA is responsible for drastically closing the gap between *actual* and *reported* crime.

One of the goals of the LEAA program is to "improve the quality of justice". I feel the program has had a meaningful impact on this goal. The system is still discriminatory in its practices. It is still a system that expresses class and racial biases. Given these biases, I feel LEAA has improved the quality of justice for people traditionally effected by class or racial bias. It has not eliminated the disparities in the administration of justice but it has improved the quality of justice for many of those people.

Has the LEAA program performed a catalyst or change agent role? Yes, at least in part. LEAA seed money has been used to promote change, when state and/or local governments have been unable or unwilling to experiment with change in a financial or programmatic sense. An example pertains to community-based corrections. Lack of involvement in community-based corrections exists, in part, because local governments expect the Colorado General Assembly to create policy and implement legislation containing appropriations. Whereas, the state expects local governments to demonstrate at the local level their interest and commitment. Resultant inaction characterizes the situation. LEAA funds are now being made available for target, pilot and other demonstration projects. It is assumed that without LEAA money inaction by state and local governments would have continued.

Two major limitations of policy activity in an open and complex society are apparent and include: 1. A limited ability to prevent crime. A much broader systems approach directed at causes not symptoms is necessary. Most police crime prevention activity is actually directed at deterring not preventing crime; and 2. A general lack of appreciation and understanding towards scientific inquiry and method.

A general criticism of LEAA is that fundamental premises and propositions are seldom challenged or tested. Has LEAA sponsored research and operations taken place in too restrictive an environment . . . one restricted by law, custom, and tradition? I think so. Very few new propositions are offered. Old and existing propositions are seldom challenged, although new methods and/or techniques may be offered. For example, there have been many experimental projects in police activities with some success in both efficiency and effectiveness. At this point in time, there appears to be very little remaining to experiment with in terms of new methods and techniques. New experiments must put forth different propositions not just new methods and techniques.

Consideration should be given to the following policy and philosophical changes: 1. Strategies directed at changing the attitudes and values of people regarding the commission of crime and/or tolerance thereof . . . a necessary approach includes crime prevention and most significantly, community involvement; 2. Strategies and policy directed at the assurance of punishment and/or some form of societal retribution by convicted criminals or those individuals confessing prior to conviction. Two considerations are critical—(a) assurance of quick judicial processing and punishment and/or (b) retribution; 3. Standardization of court procedures and general upgrade of court processing and decision making; 4. State adopted criminal justice standards and goals should be rigidly adhered to in the awarding of LEAA funding; 5. Juvenile diversion should have the highest strategy and funding priority; and 6. New legislation should provide incentives and directive for community-based corrections projects.

Some suggested procedural and organizational changes in LEAA include:

1. Direct funding allocations to local governments for action grants and to regional planning units should be encouraged. A formula allocation plan should be considered. Direct allocations to local governments should still be subject to some type of comprehensive planning effort developed on a regional basis;

2. Standardization of evaluation procedures. The majority of projects funded by LEAA are characterized more by their commonality than by their uniqueness. As such, there is a strong basis for standardizing those projects, at least in part, so that common measures of evaluation can be developed and used;

3. Need for comprehensive and extensive evaluation of projects. Much more training of local officials and LEAA personnel is necessary to accomplish systematic accountability of LEAA and other criminal justice dollars;

4. If local government action grant awards are to continue to be made by state councils it should be limited to new projects. Continuation projects should be acted upon by regional councils and should not have to go before state councils for subsequent review. In my judgment, it would be preferable to have all projects (new and continuation) limited to review by a regional council and limit review of state projects to a state council;

5. A fundamental organization problem facing LEAA has to do with the state level of administration. That administrative level is usually identified in the form of a Division of Criminal Justice, a Governor's Commission on Crime Control, or something of that sort. It is generically referred to as the State Planning Agency for the LEAA program. In my judgment, it is unnecessary to vest as much responsibility at this administrative level as currently exists in most states. More administrative and planning responsibility should be given to regional planning units;

6. More flexibility in funding individual projects from more than one program area of a state plan. Projects often cut across functional program areas. Example, a police project may involve components dealing with apprehension and deterrence, community involvement, and crime prevention, yet may get funded entirely under a program titled, "Apprehension and Deterrence", thus implying that the project is entirely involved in apprehension and deterrence;

7. The grant review process is cumbersome, burdensome and administratively inefficient. Administrative dollars necessary for administering over planning dollars is far too high. The process needs to be streamlined. More precise organizational distinctions should be made between grant administration and other administrative staff and planning staff; and

8. It is very difficult if not impossible for private non-profit organizations and private citizens and community groups to seek and obtain funding. It is reasonable to expect LEAA to maintain safeguards against abuse and misuse of funds as well as to take legal recourse against a grantee that engages in misuse of LEAA funds. Nevertheless, arrangements should be made to encourage and facilitate more grant requests from non-governmental organizations.

Many activities simply cannot be planned for on a comprehensive basis statewide, such as local criminal justice planning for police activities, for community related activities, and for community-based correctional projects. It is my judgment that responsibility or such planning should rest solely with the regional and local operations. Local and regional operations should, therefore, not be burdened by statewide mandates, directives, and policies regarding such planning. The distinctions, differences and the uniqueness of various parts of a given state are such that it makes very little sense to have one or a series of uniform policies affecting all regions. State planning offices spend an inordinate amount of time trying to coordinate matters throughout the State when there is often no basis for coordinating such. Planning for local police operations and for community involvement in an area such as Denver presumably is going to be different from planning for the same activities in places such as Lamar or Sterling, Colorado. It should be assumed that differences will exist and, therefore, permit a degree of independence to operate in response to those differences.

The Governor of the State of California recently made a decision to maintain what was referred to as a skeleton staff at the state level and to allow LEAA planning monies to float down to regional and local operations so that they may perform many functions that previously were being performed by the State staff. In my judgment, that decision was prudent and wise. It suggests the need and the capability of bringing about greater cost efficiencies in terms of planning and administration. It also eliminates a level of bureaucracy, and minimizes the administrative time and procedures that are currently being maintained by State LEAA offices. In theory, such an effort should minimize the administrative costs of the program.

The most pervasive and definitive criticism of the LEAA program is one that emerged early and has continued in a most persistent and unacceptable manner throughout the existing period of the LEAA program. A study conducted by the National League of Cities and U.S. Conference of Mayors came out a couple of years after the LEAA program inception. Their fundamental criticism, a criticism that I wholeheartedly agree with, was that the LEAA program simply was not sending money into areas of either high crime incidence or high population. That criticism is just as true today as it was four or five years ago. It

is incredible to believe or incredible to consider that crime and population still in many states, Colorado being one of them, apparently has very little weight or very little consideration given to it in the awarding of planning and action monies. Acknowledging that there are many considerations for the awarding of monies in a crime control plan or a crime control project, it is still difficult for me to believe that anything should be more important than the problem of crime itself. Yet, it appears that within the State of Colorado there are a substantial number of reasons, presumably some of which are political in nature, that render decision of tremendous bias against metropolitan and urban areas, which have the highest incidence of crime and population.

There are many issues and points I have attempted to address. They reflect judgments developed from specific experiences, a particular contextual setting, and perhaps a limited perspective. Nevertheless, I feel they all express a level of validity worthy of serious consideration. I sincerely hope that my comments have been expressed with sufficient clarity and will assist you in your understanding of the LEAA program. Where further clarification or information is desired, please do not hesitate to contact me.

It is with concern for those matter and an appreciation of your responsibilities that my comments are communicated to you.

Sincerely,

CHARLES P. SHANNON,
Director, Criminal Justice Program.

SUPREME COURT,
STATE OF NORTH CAROLINA,
Raleigh, N.C., November 21, 1975.

Re HR 8967.

HON. JOHN L. McCLELLAN,
*Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary,
Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR McCLELLAN: On October 2, 1975, Chief Justice Howell Heflin of Alabama and Mr. Marian Opala, Court Administrator of the State of Oklahoma, appeared before your Subcommittee representing the Conference of Chief Justices and the Conference of State Court Administrators, respectively, to argue in support of HR 8967. Because of my serious concern for this matter, I have decided to take what is for me a very rare step of making a recommendation to members of the Congress.

As Chief Justice of the State of North Carolina and, consequently, the chief executive officer of its Judicial Department, I am vitally concerned about the funding of the courts. Frankly, I am much more concerned about the funding mechanism and the restraints attached to the dollars than I am about the size of the funding. We must at all costs maintain the courts as separate and independent departments of government. The threat which past LEAA funding practices poses to the judiciary as a separate institution has been well-documented by Mr. Opala.

Please accept my endorsement of the statements made to the Subcommittee by Chief Justice Heflin and Mr. Opala, and let me urge your support of the principles embodied in HR 8967.

Sincerely yours,

SUSIE SHARP,
Chief Justice.

ALASKA COURT SYSTEM,
STATE OF ALASKA,
Anchorage, Alaska, October 16, 1975.

Re LEAA Act.

HON. JOHN McCLELLAN,
*Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR McCLELLAN: I understand that your Committee on Criminal Laws and Procedures will be holding hearings on the LEAA Act on October 22, 1975. Chief Justice Robert Boochever of the Alaska Supreme Court regrets that he will not be able to attend this important hearing, but has asked that I prepare the enclosed statement expressing the position of the Alaska Court System.

I would be most appreciative if the enclosed statement could be made a part of the record of the hearing.

Thank you for your attention to this matter.

Very truly yours,

ARTHUR H. SNOWDEN II,
Administrative Director.

STATEMENT OF ALASKA COURT SYSTEM

I have been asked by Chief Justice Robert Boochever of the Alaska Supreme Court to make a statement expressing the Alaska Court System's dissatisfaction with the allocation of planning and funding assistance that our courts have received from the Law Enforcement Assistance Administration. While our State planning agency has been helpful in obtaining some assistance for court improvements, the priorities set at the Federal level do not permit the level of assistance we believe is necessary to fulfill the spirit and intent of the Omnibus Crime Control and Safe Streets Act. Accordingly, we believe that Federal priorities must be reordered to recognize the significant role of the courts in the criminal justice system.

ARTHUR H. SNOWDEN II,
Administrative Director.

RAPPAHANNOCK AREA DEVELOPMENT COMMISSION,
Fredericksburg, Va., October 24, 1975.

HON. JOHN L. MCCLELLAN,
*U.S. Senate,
Washington, D.C.*

DEAR SENATOR MCCLELLAN: As a criminal justice planner employed by four counties and an independent city located in central Virginia, I am deeply interested in S. B. 2212 which is currently pending before both Houses of Congress. I represent an area of 90,800. This area is experiencing the fastest rate of growth of any area in the Commonwealth. With the tremendous increase in population, there is also a tremendous increase in the crime rate in this area.

In developing my 1976 Regional Criminal Justice Plans, I experienced many of the problems referred to in the testimony given by the Honorable Phillip Elfstrom on behalf of the National Association of Counties. This testimony was presented on October 8, 1975 to the Senate Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary.

I strongly urge that you support the re-authorization of the program (S.2212) and that you also support the preservation and extension of block grants through the states to local governments.

Thank you for your consideration.

Sincerely,

THOMAS M. SPRATT,
Criminal Justice Planner.

SUPREME COURT,
OFFICE OF ADMINISTRATOR FOR THE COURTS,
Olympia, Wash., October 27, 1975.

HON. JOHN L. MCCLELLAN,
*Senate Office Building,
Washington, D.C.*

DEAR SENATOR MCCLELLAN: It is my understanding that you have asked for input from State Judiciaries regarding LEAA and its relationship to state courts. Enclosed you will find a copy of a letter which Chief Justice Charles Stafford and I sent to members of the State of Washington's Congressional Delegation. We enthusiastically support the legislative concepts embodied in HR 8067 and respectfully request that you give such legislation most serious consideration.

If we can provide additional information to you, we would be most pleased to do so.

Very truly yours,

PHILLIP B. WINBERRY,
Administrator.

Enclosure.

THE SUPREME COURT,
STATE OF WASHINGTON,
Olympia, Wash., September 24, 1975.

HON. WARREN G. MAGNUSON,
*U.S. Senator, Senate Office Building,
Washington, D.C.*

DEAR SENATOR MAGNUSON: We are writing to request your consideration and support of HR 8967, the "State Courts Improvement Act of 1975", introduced by Representative Peter Rodino at the request of the Conference of Chief Justices on July 28, 1975. HR 8967 is a major and significant piece of legislation impacting state judiciaries throughout this country. The introduction of such legislation brings into focus the glaring imbalance in the present Safe Streets Act which fails to provide to state judiciaries sufficient assistance for coping with ever-increasing criminal case loads generated in large part by police agencies which have been improved through the utilization of LEAA funds.

We are enclosing for your information a summary statement in support of HR 8967 prepared by the Conference of Chief Justices. The statement of the Chief Justices adequately describes the deficiencies of the current Safe Streets Act but, of course, does not address itself to the particulars we face in the state of Washington. I would like to call the following information to your attention.

Since the creation of the Law Enforcement Assistance Administration, \$32,266,553.00 has been expended on action grants in the state of Washington. The total spent on Washington's judiciary, an integral part of the criminal justice process, during the same time period is \$1,036,056, or 3.2% of all action grant expenditures. Notwithstanding the often repeated commitments of LEAA officials to increase its support for state judiciaries, the 1976 Comprehensive Criminal Justice Plan for the state of Washington, recently approved by the Governor's Committee on Law and Justice, allocates only 6.4% of part C action monies to the judicial system. That percentage will be even lower if the judiciary does not obtain legislative approval to expend in excess of \$500,000.00 on the development of an automated courts information system. It should also be noted that these figures do not include party B money which is required to be spent on corrections or part planning funds. Use of these figures would lower the judiciary's percentage even more.

We in the judiciary are not happy that we must rely on federal assistance to adequately manage our ever-increasingly complex operations. However, it is a fact of our existence that LEAA funds constitute a much larger percentage of our budgets than they do for executive branch agencies. This fact is inescapable and points out the small amounts presently being spent on the judiciary by state and local governments. We recognize our responsibility to further inform state and local governments of our financial needs, but also feel that Congress should recognize the unique characteristics of the judiciary, and guarantee to the courts an adequate percentage of LEAA funds upon which we have come to rely. The availability of such funds, however, should not be controlled by the executive. A system which allows such domination is a very serious violation of the separation of powers theory, the bedrock upon which our nation and states have been founded. HR 8967 recognizes this constitutional necessity by guaranteeing to state judiciaries a fixed percentage of all LEAA funds for utilization exclusively by the judiciary. This is essential if the judiciary is to continue to be an equal partner in government and more particularly the criminal justice process.

Finally, it should be pointed out that planning agencies, created under the Safe Streets, Act, are in no way balanced to represent the views of the three branches of government. In this state, at the present time, the judiciary is represented on a twenty-nine (29) man committee by the State Court Administrator and a superior court judge from King County. This certainly does not indicate that the judicial voice is a very large one in the allocation of these funds. HR 8967 would also cure this defect in current legislation by guaranteeing that not less than one-third of the members of the state's planning agencies would be selected by the state's chief justice.

For these and other reasons which we would be happy to discuss with you at a mutually convenient time, we again urge your support of HR 8967.

Respectfully,

CHARLES F. STAFFORD,
Chief Justice.
PHILLIP B. WINBERRY,
Administrator.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., December 18, 1975.

Senator JAMES O. EASTLAND,
U.S. Senate,
Washington, D.C.

DEAR JIM: I understand that the Judiciary Committee is currently considering legislation to amend the Omnibus Crime Control and Safe Streets Act of 1968. The State of Alaska is concerned about Section 205 of that Act authorizing funding for planning grants under the Law Enforcement Assistance Administration.

LEAA's current Part B funding formula provides a \$200,000 annual base level planning grant allocation for each state plus a per capita allocation of the remaining Part B funds to each state based upon state population. I am informed that the current legislation proposal has a similar Part B funding formula. The amount of planning money furnished Alaska under this formula is inadequate to provide my state with a functional criminal justice planning unit.

During FY 1976 Alaska received \$340,00 in Part B funds; \$200,000 based on the minimum allotment and \$90,000 based on population. Operating costs for Alaska's state planning agency totaled \$573,420. This means that Alaska had to match the \$340,000 provided by LEAA with \$233,420 of state money, a far cry from the 90/10 ratio specified in the Crime Control Act.

Alaska has been very active in its efforts to develop a state criminal justice plan. However, it cannot be expected to overmatch LEAA's planning grants indefinitely. Alaska needs additional funding if it can hope to continue its participation in this very worthwhile program. I would suggest that the funding formula for Part B grants be changed to allocate \$300,000 to each of the states. This additional funding would greatly assist Alaska in fulfilling its obligations under this program.

For your information I am enclosing a copy of a letter which I received from Governor Hammond concerning Alaska's participation in the planning grant program.

With best wishes,
Cordially,

TED STEVENS,
U.S. Senator.

Enclosure.

STATE OF ALASKA,
OFFICE OF THE GOVERNOR,
Juneau, Alaska, July 29, 1975.

Hon. TED STEVENS,
U.S. Senate, Russell Building,
Washington, D.C.

DEAR TED: It was my pleasure to have a visit with Mr. Richard (Pete) Velde of the Law Enforcement Assistance Administration (LEAA) last week. One of the principal problems discussed was Federal support for Criminal Justice planning. It appears that we also need Federal legislative action in this area. The amount of planning money furnished to small states, currently \$200,000 is not enough when matched at the 90/10 ratio to provide Alaska with a functional Criminal Justice planning unit.

I understand you took a personal interest in raising the "floor" from one hundred to two hundred thousand when the Crime Control Act was up for extension in 1973. I am asking that you take like action this year when the President proposes new legislation continuing LEAA through 1981. Specifically, Alaska needs a \$300,000 base to work from in Part B (Planning) funds and I trust you will vigorously support such a position.

As a reference for you, Public Law 93-83, Crime Control Act of 1973, Section 205 reads as follows: "Funds appropriated to make grants under this part for a fiscal year shall be allocated by the Administration among the States for use therein by the State planning agency or units of general local government, as the case may be. The Administration shall allocate \$200,000 to each of the States; and it shall then allocate the remainder of such funds available among the States according to their relative populations."

I am asking that this language be changed to allocate \$300,000 to each of the States.

Prior to Mr. Velde's visit to Alaska, I wrote him of our concerns and the need for more realistic funding. Based upon that information and the situation he found here, he has indicated that his agency will furnish additional discretionary support for a limited period. He did ask, however, that I contact you and acquaint you with this matter.

I am attaching a copy of the material we used in bringing this problem to Pete Velde's attention.

Thank you for your help.

Sincerely,

JAY S. HAMMOND, *Governor.*

Enclosure.

VELDE VISIT—PLANNING FUND SUPPORT

1. LEAA's Part B funding formula provides a \$200,000 annual base level planning grant allocation for each state plus a per capita allocation of the remaining Part B funds to each state based upon state population. Under this formula, during FY76, Alaska will receive the minimum \$250,000 and \$90,000 based upon its small population.

2. During FY76, total SPA operating costs will be \$573,420. Of this amount the State will provide \$233,420 to match the \$340,000 provided by LEAA in Part B planning funds. This is a grant match ratio of 60 percent/40 percent and hardly the 90 percent/10 percent ratio specified by the Omnibus Crime Control Bill and Safe Streets Act for planning grants. The required match for the LEAA grant is \$37,780 and thus the State of Alaska is overmatching the grant by \$195,640, in order to satisfy LEAA's minimum administrative requirements. Alaska has exceeded the required match ratio since Fiscal Year '73 and continues to do so at an accelerating rate.

3. A higher cost of living than the forty-eight contiguous states, coupled with the extreme inflation of the past two years, is the primary reason why LEAA's base level Part B Planning fund allocation is no longer adequate for Alaska. Since FY 1973, State Planning Agency salary rates alone have risen 40 percent, while LEAA funding has only increased 5.6 percent.

4. Alaska leads the nation in per capita criminal justice expenditure from State and local sources. The per capita expenditure for Alaska is \$106.94, or more than double the national average of \$50.92. Per capital spending in the other 49 states varies from a high of \$89.83 for Nevada, to a low of \$19.97 for Arkansas. The State of Wyoming, using LEAA's funding formula, comes closest in comparison to Alaska. Wyoming has a population similar to Alaska's and receives Part B funds in an amount near that received by Alaska. All other similarity, however, stops at this point. Alaska has a geographic size six times greater than that of Wyoming. The time, distance, and weather factors involved with such size by themselves contribute to a high cost of living. The starting pay for a planner in Wyoming is \$12,000. In Alaska a planner starts at \$25,428. Benefits paid on these salaries are 12 percent and 18 percent, respectively. For the most part business travel in Wyoming is easily and quickly accomplished by automobile, whereas the airplane provides the basic mode of transportation in Alaska. A recent technical assistance trip to Unalakleet, where one and one-half days were spent on site, required two additional days of travel and cost \$470. Based upon the 1973 census data, which shows Wyoming with a population of 346,000 and Alaska with a population of 325,000, Wyoming will receive \$346,000 in Part B planning funds while Alaska will receive \$340,000 in Planning funds. From their sources, Wyoming expended \$12,651,000 and Alaska expended \$34,757,000 for criminal justice purposes during 1973. The ratio of Federal planning dollars received for each local dollar expended for criminal justice was \$0.0273 for Wyoming and \$0.0098 for Alaska, or nearly a three-to-one difference between these two states. Wyoming's per capita expenditure of \$36.30 was within pennies of being only one-third of that expended by Alaska. Although it is the intent of LEAA's funding formula to treat all of the states in a equitable manner, it is becoming increasingly evident that a serious disparity in fund allocation has occurred. It is not that Wyoming and other small population states are

receiving too much planning funds, but rather, that Alaska is receiving too little.

5. Current LEAA Part B funding of Alaska's State Planning Agency (SPA) is not adequate to allow the SPA to meet LEAA's guidelines concerning SPA performance and minimum staff requirements. In order for the Alaska SPA to meet LEAA guidelines, the State has been substantially overmatching its Part B Planning grant and can only, at best, claim technical compliance with the guidelines. LEAA's guideline refinements in the past two years in the areas of evaluation, monitoring, planning coordination, and grants administration, are not within the realm of achievement given the State's limited resources and LEAA's present Part B funding allocation. In view of the present inflationary trends, which are being doubly felt in Alaska it is doubtful the State can continue to increase its share of the SPA operation budget while LEAA's funding remains stagnant. Growth in Alaska with greater demands on staff times, diminishing real dollar values, and lack of resources, make it difficult if not impossible, for the SPA to respond to LEAA guideline changes requiring increased SPA activity.

6. The \$200,000 floor level is designed to cover basic operating expenses for small population states so that such states can meet LEAA's minimum administrative requirements within the framework of the 90 percent/10 percent matching ratio. In the case of Alaska, this simply can no longer be done. There must therefore, be recognition, at the Federal level, of the inequitable funding Alaska is now receiving from LEAA. The most just means of bringing Alaska back into balance with the remainder of the nation, is to provide increased Part B funding which reflects the difference in the cost of living between Alaska and the rest of the nation.

Unless relief is found soon, we must accept the fact that as the buying power of the dollar decreases, so will the production of the SPA. When compared with the other small population states, a near 50 percent difference in grant/dollar productivity already exists without accounting for inflationary impact. The State's ability to overmatch LEAA's planning grant cannot be expected to continue indefinitely. As the costs of operating the SPA spiral, the state must, one day soon, ponder whether the State's participation in LEAA's programs is worth the investment from a strictly monetary point of view.

SUPREME JUDICIAL COURT,
Boston, Mass., October 31, 1975.

Hon. JOHN McCLELLAN,
Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
Senate Office Building, Washington, D.C.

DEAR SENATOR McCLELLAN: I have recently received a copy of Chief Justice Howell Heflin's statement to your subcommittee on H. R. 8907, commonly referred to as the Rodino Bill, which would make certain amendments to the Crime Control Act.

Chief Justice Heflin, as you know, spoke on behalf of the Conference of Chief Justices. As a member of that conference, I wish to express my support for his remarks and ask that they be included as a matter of record with respect to your subcommittee's consideration of this bill.

In past comments on the distribution of LEAA funds, I have pointed out that the Massachusetts court have generally fared fairly well in comparison to the courts of other jurisdictions. I fear that this situation may be about to deteriorate.

In 1975, 5.0 per cent of the funds distributed by the Massachusetts Committee on Criminal Justice, the state planning agency (SPA), were allocated to court management. Despite much lip service paid to the need to improve judicial administration, the 1976 SPA staff recommendations for this category amounted to only 2.9 per cent of the LEAA funds to be distributed in Massachusetts—a decrease of 42 per cent. There are indications that attempts will be made to reduce this allocation even further, bringing it close to a 50 per cent reduction.

There is some reason to believe that, in part, the motivation for this drastic reduction is recommended funding for court management is retaliation for the refusal of certain court personnel to participate in an SPA favored project deemed by them to violate the constitutional separation of powers as set forth in an advisory opinion of the Supreme Judicial Court.

Of the 1976 funds allocated to "Courts" as defined by LEAA, \$1,695,725 is recommended for prosecution, \$1,314,012 to defense and only \$439,781 to court administration. Thus, if these recommendations are accepted, only 13 per cent of so-called "Courts" funds will actually be allocated in the courts in Massachusetts.

In view of these facts, I can no longer say that Massachusetts is one of those states in which the courts have fared fairly well under the existing LEAA funding arrangement.

To secure any restoration of deleted requests, judges and court administrative personnel will inevitably be dragged into the sort of political "wheeling and dealing" which our state Constitution, with its strong separation of powers provisions, strives to avoid. This is a dangerous and unhealthy situation.

To avoid the improper interference of state executive personnel and, indirectly, of federal executive personnel in the activities of the state courts and, by the same token, to avoid the equally improper involvement of state court personnel in the affairs of executive agencies, I wholeheartedly support H. R. 8967 and am very pleased to learn that Senator Edward M. Kennedy of Massachusetts has agreed to introduce it in the United States Senate.

It is a fact of life that, in our present economic crisis, our state courts must look to continued federal financial support to underwrite efforts to improve their administration. They must, at the same time, strive to have the states accept their rightful obligations to their courts. But, in the meantime, federal funds must be administered in such a way that the independence of the judiciary is not violated and that, in the process, the administrative capabilities of the state courts are strengthened.

If I can be of further assistance to you or your subcommittee with respect to H. R. 8967, please feel free to call upon me.

Sincerely,

G. JOSEPH TAURO,
Chief Justice.

COUNTY COMMISSIONERS OF CHARLES COUNTY,
La Plata, Md., November 18, 1975.

HON. JOHN L. MCCLELLAN,
*U.S. Senate,
Washington, D.C.*

DEAR SENATOR MCCLELLAN: With the Law Enforcement Assistance Administration (LEAA) program due for re-authorization, we would like to recommend that Congress rework the LEAA program, extending the block grant process to better implement the program, and then re-authorize it.

We feel that the LEAA program has been very useful to us in helping to control crime. Using LEAA funds we have been able to better sophisticate the law enforcement process in Charles County. However, one of the major problems with the program has been that local planning units exercise little discretion in the allocation of funds.

We believe that the most efficient method of dispatching LEAA funds to state and local governments is in the form of block grants. This method would accelerate the funding process and eliminate some of the red tape that is presently involved in the allocation process.

Block grants should be awarded to local planning units just as formula allocations are presently made by LEAA to the states. Each state would establish its own allocation formula for dispersing these funds.

Any planning region that prefers to not accept the responsibility could select to have the state continue to control their funding allocations.

Again, we believe that the LEAA program is worthy of re-authorization and we desire the extension of the block grant program along with this re-authorization.

Very truly,

RAYMOND T. TILGHMAN,
President.

ELEANOR F. CARRICO
JAMES F. DENT

ADMINISTRATIVE OFFICE OF THE COURTS,
COMMONWEALTH OF KENTUCKY,
Frankfort, Ky., October 28, 1975.

Senator JOHN McCLELLAN,
*Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
Dirksen Senate Office Building, Washington, D.C.*

DEAR CHAIRMAN McCLELLAN: At the suggestion of Mr. Marian P. Opala who appeared before the Subcommittee on Criminal Laws and Procedures on October 22, 1975, I am communicating to you my statement in support of H.R. 8967.

My office for the Commonwealth of Kentucky is analogous to the office held by Mr. Opala for the state of Oklahoma. In this respect I have shared many of his observations on LEAA's funding of the courts, and as a member of the resolutions committee of the Conference of State Court Administrators in 1973, participated in drafting that Conference's formal resolution pointing in the direction of H.R. 8967.

Under date of October 20, 1975, Chief Justice Reed of Kentucky communicated to you his views concerning H.R. 8967 and related matters. Chief Justice Reed's position is so well and so perfectly stated in all respects that I would not wish to detract from it in any way by offering another. Since I do agree with it wholeheartedly, however, I respectfully join in it by express permission of Chief Justice Reed.

Accordingly, it is hoped that H.R. 8967 may receive the Subcommittee's favorable consideration.

Sincerely,

HOWARD B. TRENT, JR.

SUPREME COURT OF VERMONT,
OFFICE OF THE COURT ADMINISTRATOR,
Montpelier, Vt., October 28, 1975.

Hon. JOHN L. McCLELLAN,
*Chairman, Subcommittee on Criminal Laws and Procedures, Committee on the
Judiciary, Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR McCLELLAN: May I take this opportunity when your Subcommittee is conducting oversight hearing on the future operation of LEAA as embodied in S. 2122, to voice my strenuous opposition to the Senate Bill. It seems to me that there is a demanding reason and principle at stake requiring a change to ensure that the State Judiciaries are relieved of the present subservience to the Executive Branch of Government.

Our advocates, in the very able persons of Chief Justice Howell Heflin in behalf of the National Conference of Chief Justices, and Mr. Marian P. Opala, Administrative Director of the Courts of the State of Oklahoma, have appeared before you and have recited the problem the Courts are experiencing as LEAA is presently constituted and operated under existing enabling legislation. I would prefer legislation embodied in H.R. 8967 as introduced by Mr. Rodino (upon request) as a compromise between what LEAA would like and what Court Administrators would prefer.

Please do all you can to maintain inviolate the principle of separation of powers and the independence of each branch of government.

Sincerely yours,

LAWRENCE J. TURGEON,
Court Administrator.

CHIEF JUSTICE ROBERT C. UNDERWOOD,
Bloomington, Ill., October 28, 1975.

Re H.R. 8967.

*To the Members of the Subcommittee on Criminal Laws and Procedures of the
United States Senate Judiciary Committee:*

Article VI, Section 16 of the 1970 Constitution of the State of Illinois vests in the Supreme Court of Illinois general administrative and supervisory authority over all other courts of Illinois to be exercised by the Chief Justice in accordance with the rules of the Supreme Court. It is essential to the effective exercise of that supervisory administrative authority that the Supreme Court be in a position to implement its determinations as to the priority to

be accorded the various projects designed to improve the court system of this State.

While I appreciate the Congressional problems involved in fixing responsibility for the allocation of Federal funds, the present methods authorized by existing legislation make it extremely difficult for this Court to utilize Federal funds with maximum effectiveness. We must compete for those funds before a State Planning Agency, the membership of which is not adequately representative of the judicial branch of government. Amounts allocated to the improvement of the judicial system are substantially less than the amounts needed, and the projects for which such funds are allocated are frequently not those which this Court would consider as having priority.

If LEAA funds are to be used in this State with maximum effectiveness, I view as essential legislative provisions allocating to the State agency charged with responsibility for supervising the judicial system a stated minimum percentage of the total funds allocated to the State, together with controlling authority in determining the projects or purposes for which such funds are to be used.

In my judgment, H.R. 8967, commonly known as the Rodino Bill, offers the best available means of accomplishing these purposes. I strongly urge its passage.

Yours very truly,

ROBERT C. UNDERWOOD.

U.S. SENATE,
Washington, D.C., March 16, 1976.

HON. JOHN L. MCCLELLAN,
Chairman, Subcommittee on Laws and Procedures,
Dirksen Building, Washington, D.C.

DEAR JOHN: Enclosed is a letter I received from Judge Walter G. Whitlatch regarding S. 2212, the Crime Control Act. I would appreciate your including his comments in the record of the proceedings on this bill.

Thank you for your attention to this matter.

Best wishes.

Sincerely,

ROBERT TAFT, JR.
U.S. Senator.

Enclosure.

JUVENILE COURT,
Cleveland, Ohio, February 27, 1976.

Re S. 2212

HON. ROBERT TAFT JR.,
U.S. Senate, Old Senate Office Building,
Washington, D.C.

DEAR SENATOR TAFT: The Juvenile Court Judges throughout the State were very much encouraged by the decisive action of the Congress, particularly the Senate, in passing the Juvenile Justice and Delinquency Prevention Act of 1974. The vote in the Senate was 88 to 1 in favor of this important legislation.

The Act has many laudatory provisions which would, if properly implemented, substantially reduce youth crime. However, the program has been grossly underfunded since its very inception and consequently its effect on the crime problem has to date been quite minimal.

Funding of the Office of Juvenile Justice and Delinquency Prevention, which was created by the Act, is now further threatened by S. 2212, introduced by Mr. Hruska. This Bill would delete Section 261(b) and Section 554 from the Juvenile Justice and Delinquency Prevention Act. These Sections are referred to as the "maintenance of Effort" provision and in brief provide that the Administration shall maintain the level of financial assistance for juvenile assistance programs as was provided by the LEAA in the fiscal year of 1972. Obviously the intent of this attempted repeal is to further diminish the already inadequate funding of the Juvenile Justice and Delinquency Prevention Act.

S. 2212 is now pending in the Committee on the judiciary. I urge you to oppose the enactment of Sub-Sections 2 and 3 of Sections 8 of S. 2212.

All of us who are engaged in the day to day struggle to control and reduce crime and delinquency would welcome your able assistance in providing adequate funding for the Juvenile Justice and Delinquency Prevention Act of 1974.

Most sincerely,

WALTER G. WHITFLOTH, *Judge.*

GOVERNOR'S COMMISSION ON
CRIME PREVENTION AND CONTROL,
Marshall, Minn., October 22, 1975.

HON JOHN McCLELLAN,
*U.S. Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: Currently, the Senate Subcommittee on Criminal Laws and Procedures is reviewing legislation which will extend the Law Enforcement Assistance Administration, L.E.A.A.

The Region E Advisory Council, wishes to stress their support of continuing L.E.A.A. until 1981. Additionally, we wish to indicate our support of the amendments to the Crime Control Act of 1973 proposed by the National Association of Counties and our opposition to Senator Kennedy's emphasis on categorical grants.

The Region E Advisory Council has voted unanimously in favor of all but one of the amendments to the Crime Control Act of 1973 proposed by the National Association of Counties (See enclosure). Amendment #2, which would not allow sheriffs, county attorneys or judges to be considered as elected officials was opposed because the Council felt such membership requirements would limit criminal justice input. The amendment was proposed to insure that the elected and legislative officials who are responsible for the allocation of local funds are the majority of regional council members. This agreement ignores the fact that, in addition to making funding recommendations, regional councils are also involved in decisions relating to internal criminal justice policies and need substantial input from the criminal justice system.

The Council was supportive of the rest of the amendments and was particularly emphatic in its support of Amendment #7, which would require block grants to regions and Amendment #9, which would require a multi-year plan rather than an annual plan. Amendment #7 would better insure that priorities of local units of government, which fund a large portion of all criminal justice expenditures, are followed. Amendment #9 would save considerable unnecessary expenditures of time, money and energy which could be best used to expand the technical assistance and planning assistance to local and criminal justice agencies.

Sincerely,

CHET WIENER, *Chairman.*

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., September 26, 1975.

Memo to: Criminal Justice Planning Directors.
From: Valerie Pinson, NACo Legislative Representative.
Re Strategy for Re-authorizing the LEAA Program.

As you know from our September 16 memo, the Senate Sub-committee on Criminal Laws and Procedures will conduct hearings soon on the Administration's "Crime Control Act of 1976" (S.2212). NACo is scheduled to testify October 8. Senator Roman Hruska (R-N), who presides over the hearings as chairman, told us the following issues will be considered: Role of the judiciary on the state supervisory board; role of the state legislature in the LEAA program; minority representation on state and local supervisory boards; local elected official representation on state and local supervisory boards; size, administrative usefulness, location etc. of state and local supervisory boards; modification of the funding floor for state planning activities.

Since your planning unit and the local governments you serve have a stake in the LEAA program, you may want to join our efforts. NACo advocates more local control over allocation of LEAA funds. The attached resolution (adopted by NACo membership this year at our annual conference), supporting statement, and amendments to the Crime Control Act spell out our position.

To help us with these amendments from Congress, please ask your planning board or county governing board(s) to pass resolutions supporting the NACo amendments. Forward copies of these resolutions to me in the NACo Federal Affairs Department. If you can document how the Crime Control Act we have now inhibits development of effective programs in your areas, or how funds from the LEAA program help effective programs get started, we'd be grateful for the information. I will take this information to your Senators.

If local officials in your areas know one or both of your Senators personally, urge him or her to write a letter to pay a visit to the Senator enlisting support for block grants to local governments.

This is a crucial time for the LEAA program. Only through solid local support can we achieve changes in the Crime Control Act that will enable local governments to plan and implement badly needed changes in our county criminal-justice systems.

**RESOLUTION ADOPTED BY THE NATIONAL ASSOCIATION OF COUNTIES,
JUNE 25, 1975**

State and federal guidelines, rules, and plans have made the Safe Streets Act increasingly take on the character of a categorical grant program.

These limitations are making it increasingly difficult for local governments to utilize Safe Streets Act funds to plan and implement local crime control programs.

Therefore, the National Association of Counties believes that the following principles should be incorporated into the continuing efforts of the federal government to assist states and units of local government in reducing crime and improving their criminal justice system.

The federal government shall continue to assist states and units of local government in reducing crime and improving criminal justice.

Block grants shall be extended through the states to cities and counties to allow these units of government, which have primary functional responsibility for the criminal justice system, to plan, allocate funds, and carry out a comprehensive program to reduce crime and improve the criminal justice system.

Elected local officials shall comprise a majority of state as well as regional planning boards: (a) state boards shall be at least 51 per cent elected local officials with at least 51 per cent of these being executive and legislative officials representing general units of local government; (b) regional boards shall be a majority of executive and legislative officials representing general units of local government.

Legislative provisions of the Safe Streets Act which focus funds on specific categorical subject areas or programs shall be reduced or repealed and the monies allocated for these purposes added to the block grants to states and units of local government.

SUPPORTING STATEMENT

County expenditures constitute 24% of all criminal justice expenditures of states, counties and municipalities.

County expenditures constitute 15% of all state and local expenditures in the area of police protection, 50% of all state and local expenditures for legal services and prosecution, 51% of all state and local expenditures for indigent defense and 29% of all state and local expenditures for corrections.

Eighteen percent of all state and local police agencies are administered at the county level, 95% of coroners or medical examiners offices are county level agencies, 36% of all state and local courts are administered at the county level, 32% of prosecution and legal services are administered at the county level, 65% of all state and adult corrections agencies are county level agencies, 48% of all juvenile corrections agencies are county level agencies.

A majority of counties over 250,000 have either county or city/county criminal justice planning units.

According to the National League of Cities—U.S. Conference of Mayors: The criminal justice system within local government is generally coterminous

with the county government's geographical limits. If you draw a line around a county you can be certain—almost always—that you have also drawn a line around a complete criminal justice system—police, courts, and corrections agencies—even though criminal justice is not usually the sole responsibility of county government.

Therefore: Counties have a functional authority and planning capability that is not shared by either municipalities or states. Congress and the Administration should utilize counties and, where appropriate, large cities to plan and implement criminal justice reform.

PROPOSED AMENDMENTS TO THE CRIME CONTROL ACT OF 1973

NATIONAL ASSOCIATION OF COUNTIES

Amendment 1

Section 203(a)—The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement and criminal justice agencies directly related to the prevention and control of juvenile delinquency, units of general local government, and public agencies maintaining programs to reduce and control crime, and shall include representatives of citizens, professional, and community organizations including organizations directly related to delinquency prevention.

The State Supervisory Board shall be comprised of at least 51% elected local officials and at least 51% of these shall be elected legislative and executive officials representing general units of local government.

Justification

Local government provides most of the support for criminal justice agencies in most states. In addition, it is from local resources that LEAA spawned projects must find long term funding. Therefore, local officials must be heavily involved in the State Planning Process. This amendment reflects the resolution passed at the Crime and Public Safety Steering Committee meeting in February, 1974, and adopted by the NACo Annual Conference in Miami, July, 1974.

Amendment 2

Section 203(b)—The regional planning units within the State shall be comprised of a majority of elected *executive and legislative officials representing units of general local government.*

Justification

This amendment clarifies the intent of this section. In 1973 the Senate bill contained this language but the conference report did not define the term local elected official. LEAA guidelines defined the scope of this amendment to include sheriffs, judges and prosecutors as local elected officials. This change reflects NACo policy that these planning bodies be responsive to the elected officials of general purpose local governments who allocate local revenues and who bear general responsibility for the health, safety, and welfare of their communities.

Amendment 3

Section 203(b)(3)—establish priorities for the improvement of *state-wide programs in law enforcement and criminal justice. These priorities must be established with input from local government representatives.*

Justification

Too often local planning funds are wasted because state planning agencies fail to consider the priorities established by local planning units. Furthermore, since most of the agencies of the criminal justice system are city and county agencies and since the local unit of government will eventually be asked to support the program, then local policy decisions and priorities must be reflected in the State plan.

Amendment 4

Section 203(c)—The State planning agency shall make such arrangements as such agency deems necessary to provide that at least 40 50 per centum of all Federal funds granted to such agency under this part for any fiscal year will be available to units of general local government or combinations of such units to enable such units and combinations of such units to participate in the formulation of the comprehensive State plan required under this part *and to establish their local plans and priorities.*

The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement and criminal justice planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this part.

All local funds shall be allocated by formula under this subsection to assure that local governments and combinations thereof will receive planning funds commensurate with local needs and local capability to formulate comprehensive plans. All states shall designate planning units and devise a formula using indices which are most appropriate for each individual state and which meets the approval of the state supervisory board or other body that includes a majority of elected local officials.

In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level. Any portion of such 40 50 per centum in any State for any fiscal year not required for the purpose set forth in this subsection shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this part.

Justification

Targeting funds to high crime rate areas and the need for intergovernmental cooperation between cities and counties, are the major issues addressed by this amendment. It recognizes that a specific formula for block grant allocations cannot be developed for all of the states, irrespective of their unique differences. Indices for formula allocation of funds such as crime rates, population distribution and criminal justice expenditures vary considerably from state to state. Additionally, the availability and reliability of these indices also varies considerably even within a given state. Thus, no nationwide formulae can be developed guaranteeing a reasonable degree of equity in fund distribution among diverse units of local government. Therefore, each of the states must be required to develop its own formula for block grant allocations of funds to local units of government or combinations thereof, after consultation with the elected officials of such units of local government.

Amendment 5

Section 301(b)(8)—The establishment of a Criminal Justice Coordinating Council for any unit of general local government or any combination of such units within the State, having a population of two hundred and fifty thousand or more, to assure improved planning, coordination, monitoring, and evaluation of all law enforcement and criminal justice activities.

Justification

Responsibility for the evaluation of local crime control programs has become a crucial state-local issue. LEAA has recently indicated its belief that evaluation of all LEAA-funded programs should be carried out by the states. This means that already under-funded local criminal justice planning agencies will not be given the funds or the choice of evaluate and monitor either LEAA grants or the vast number of other related programs operating in their jurisdictions. Evaluative information is critical at the local level when decisions about how to best use available federal, state, and local elected officials and agency administrators to judge the value and effectiveness of crime control programs. Local criminal justice planning agencies must be provided with resources to conduct program evaluation and monitoring.

Amendment 6

Section 303(a)(2)—Provide that at least the per centum of Federal assistance granted to the State planning agency under this part for any fiscal year which corresponds to the per centum of the State and local law enforcement expenditures funded and expended in the immediately preceding fiscal year by units of general local government will be made available to such units or combinations of such units in the immediately following fiscal year for the development and implementation of programs and projects for the improvement of law enforcement and criminal justice, and that with respect to such programs or projects the State will provide in aggregate not less than one-half of the non-federal funding required of general local government under this part.

Justification

The above section is intended to determine the exact percentage of buy-in the State is required to appropriate toward the non-Federal share of LEAA-funded programs. As a result of the ambiguous language in the current legislation, the States have chosen (with LEAA sanction) to interpret this section as requiring a match of no more than five percent (5%) of its funds towards the non-Federal share. As a consequence, local governments have been required to provide all but five percent (5%) of the non-Federal share of the program and/or project cost, regardless of the funding formula imposed upon them by the States. This amendment would cure the inequitable matching conditions now being enforced on the localities.

Amendment 7 Very Supportive

Section 303(a)(4)(A)—Provide for a formula allocation of funds to units of general local government or combinations thereof provide for procedures under which plans may be submitted to the State planning agency for approval or disapproval, in whole or in part, annually from units of general local government or combinations thereof having a population of at least two hundred and fifty thousand persons to use funds received under this part to carry out a comprehensive plan consistent with the State comprehensive plan for the improvement of law enforcement and criminal justice in the jurisdiction covered by the plan. All states shall devise a formula using indices which are appropriate for each state and which meets the approval of the state supervisory board or other body that includes a majority of local elected officials. Any county over 250,000 or any city of over 250,000 together with its surrounding county shall have the option of submitting a comprehensive plan for a local criminal justice system and receiving a block allocation under this part.

Justification

This section replaces the "Kennedy Amendment" which allowed major cities and counties to submit plans directly to the State but did not require coordination between city and county plans. The intent of this amendment is to 1) require the State to establish a block allocation to local governments or combinations of local governments within the state, 2) provide large cities and counties with the option of submitting plans to and receiving a block allocation from the state and, 3) require large cities, when they are included in a county of over 250,000, to coordinate their planning and action programs with that county.

Amendment 8

Section 303(a)(4)(B)—Provide for procedures under which a city/county can calculate their required match in the aggregate on the basis of all grants under this part to which the jurisdictions involved must provide such match.

Justification

In many states local governments are required to provide cash match on a project by project basis. As a result, extra expenditures of local monies in one project cannot be used to offset match requirements in other LEAA projects. This amendment would require that the state provide mechanisms to allow local governments to aggregate their match requirements on the basis of all LEAA grants to the local government.

Amendment 9

Section 303 (a)—The administration shall make grants under this title to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan (~~not more than one year in age~~) which conforms with the purposes and requirements of this title. *Each state shall submit a comprehensive multi-year plan that will be received by The Administration to determine conformance to the standards and problems identified in this title. Subsequently an annual update will be submitted for review and approval.*

Justification

In an effort to reduce time consuming and expensive duplicative work, an update should be provided which reflects new statistics and changing needs. This would be more cost effective and would reduce the turn around time for approval of State plans. This would provide for more prompt showing of project guidelines for the new fiscal years which in turn would allow both state and local governments more time for budget preparation.

Amendment 10

Section 303(a)(14)—provide funding incentives to those units of general local government that coordinate or combine law enforcement and criminal justice, *and functions or activities including planning and evaluation.*

Justification

This amendment would lift the prohibition against using Part C funds for local criminal justice planning and administration activities. In order to provide funding incentives to those units of general local government that coordinate and combine criminal justice functions, the State planning agency should devote Part C funds to units of general local government in order that they might effectively combine the criminal justice planning and administrative activities. Since Part B funds are too limited to effectively fund comprehensive and well staffed criminal justice planning functions at the local level, the amendment to allow State planning agencies to utilize Part C funds as supplemental monies will provide for more effective and comprehensive planning. It also recognizes the fact that criminal justice planning and administration is a "law enforcement and criminal justice function."

Amendment 11

Section 303(c)—No plan shall be approved as comprehensive unless it established statewide priorities for *statewide programs* for the improvement and coordination of all aspects of law enforcement and criminal justice, *accurately reflects priorities set by local planning units for the local criminal justice system* and considers the relationships of activities carried out under this title to related activities being carried out under other Federal programs, the general types of improvements to be made in the future, the effective utilization of existing facilities, the encouragement of cooperative arrangements between units of general local government, innovations and advanced techniques in the design of institutions and facilities, and advanced practices in the recruitment, organization, training, and education of law enforcement and criminal justice personnel. It shall thoroughly address improved court and correctional programs and practices throughout the State.

Justification

These changes require that the state plan reflect locally determined priorities with respect to those functions which local government administer and fund. The amendment brings this section into conformity with other proposed amendments to the act.

Amendment 12

Section 304—State planning agencies shall receive *plans or applications* for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such ~~an~~ a plan or application is in accordance with the purposes stated in section 301 and in conformance with an existing statewide comprehensive law enforcement plan, the State planning agency is authorized to disburse funds to ~~the applicant~~ implement the plan or project.

Justification

This revision incorporates the intent to allow local governments and combinations of local government to plan for their own criminal justice system. The section as amended requires the State to receive both plans and project applications.

Amendment 13

Section 306(a)—The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:

(1) ~~Eighty-five~~ *Ninety* per centum of such funds shall be allocated among the States according to their respective populations for grants to State planning agencies.

(2) ~~Fifteen~~ *Ten* per centum of such funds, plus any additional amounts made available by virtue of the application of the provisions of sections 305 and 509 of this title to the grant of any State, may, in the discretion of the Administration, be allocated among the States for grants to State planning agencies, units of general local government, combinations of such units, or private nonprofit organizations, according to the criteria and on the terms and conditions the Administration determines consistent with this title.

Justification

These amendments reduce the discretionary funds available to the administrator. This money not reserved as part of the discretionary fund would be distributed as part of the "Part C" block allocation.

The discretionary grant program is in effect, a categorical grant program. Impact cities; pilot cities/counties; career criminal; and victims, witnesses, juror programs are examples of categorical programs initiated by LEAA with discretionary monies. Proposed amendments to other sections would distribute funds to local governments by formula allocation for the implementation of locally developed plans and priorities. These amendments reduce the need for a federal discretionary section in Part C to focus money on high crime rate areas or specific program categories.

Amendment 14

Section 307—In making grants under this part, the Administration and each State planning agency, as the case may be, shall give special emphasis, where appropriate or feasible, to programs and projects dealing with the ~~prevention, detection, and control of organized crime and of riots and other violent civil disorders~~ *detection and prevention of organized crime, juvenile delinquency, of privacy, and drug and alcohol abuse.*

Justification

The amendments in this section reflect the current challenges facing our criminal justice system. Both the Congress and the President have already recognized this need for change by passing the Juvenile Justice and Delinquency Prevention Act of 1974. Moreover, increasing concern is being generated at all levels of government over the drug, alcohol, and invasions of privacy problems now confronting American citizens. Today, civil disorders are not disrupting our country, but the aforementioned problems are.

Amendment 15

PART E—GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

Sections 451-455—shall be repealed and the funds incorporated into the "Part C" block allocation to the states to assure that these monies will pass-through to local governments.

Justification

Part E is the section of the Act that provides grants for corrections construction and programming. One-half of the funds are allocated to the states and one-half are retained in Washington as Part E discretionary funds. Very little of this money reaches the local level, where there is a substantial need to improve local correctional facilities and services. Although local governments spent \$1.1 Billion for corrections to the states' \$1.6 Billion, and although 65 percent of the corrections facilities are operated at the county level,

the National Conference of State Criminal Justice Planning Administrators has said:

"Adult and juvenile correctional programming is largely a state responsibility. Therefore, it is not surprising that the SPAs distribute a majority of their Part E corrections funds to state agencies. Forty-five percent of the states responding to the questionnaire item on this subject indicated that their entire allocation of FY 1973 Part E funds would go to state agencies. Of FY 1973 Part E funds awarded as of September 30, 1973, 66.4 percent went to state agencies. Total Part E planned allocations for FY 1973 show 13.4 percent going to state agencies and 26.6 percent going to local units of government."

The fund flow pattern under Part E is contrary to the community-based correction concept supported by NACco and the categorical nature of Part E is contrary to the revenue sharing concept embodied in the block grants given to the states with a guaranteed pass-through to local governments.

Therefore, because Part E funds do not provide significant aid in upgrading local corrections, and because as a federal and state discretionary program Part E does not recognize local priorities this section shall be repealed. The money allocated to "Part E" shall be incorporated into the "Part C" block allocation to the states.

CONFORMING AMENDMENTS

301(b)(4)—Constructing buildings or other physical facilities which would fulfill or implement the purpose of this section, including local and state correctional facilities, centers for the treatment of narcotic addicts, and temporary courtroom facilities in areas of high crime incidence.

303(a)(16)(A)(B)(C)—Assure that corrections construction or programs funded under this part are part of a state or local comprehensive plan for the improvement of correctional programs and practices and, that such construction or programs: (A) provide satisfactory emphasis on the development and operation of community-based correctional facilities and programs, including diagnostic services, halfway houses, probation, and other supervisory release programs for preadjudication and postadjudication referral of delinquents, youthful offenders, and first offenders, and community-oriented programs for the supervision of parolees; (B) that any construction carried out under this part be in accord with provides for advanced techniques in the design of institutions and facilities; (C) provide necessary arrangements for the development and operation of narcotic and alcoholism treatment programs in correctional institutions and facilities and in connection with probation or other supervisory release programs for all persons, incarcerated or on parole, who are drug addicts, drug abusers, alcoholics, or alcohol abusers.

CITY OF BOWIE,
Bowie, Md., October 30, 1972

HON. JOHN L. McCLELLAN,
Chairman, Subcommittee on Laws and Procedures,
U.S. Senate, Washington, D.C.

DEAR SENATOR McCLELLAN: On October 9, three members of the Criminal and Social Justice Committee of the U.S. Conference of Mayors testified before the Senate Subcommittee on Criminal Laws and Procedures on the restructuring of the Law Enforcement Assistance Administration. In stating the posture of the Conference on this matter, Mayors Jackson, Sloane and Wise made six recommendations for improving this important program. I wish to call your attention to two of these points:

1. Federal funds should be distributed directly to cities or single City-County combinations with a population of 100,000 or above.

2. Cities or single City-County combinations over 100,000 population should have the authority to develop their own plans and set their own priorities for the expenditure of funds granted directly to them.

As Mayor of a city of 45,000, I take particular exception to the establishment of any population level as the criterion for receipt of direct federal funds. In this case, the 100,000-figure signifies little more than size; it is not an indication of the ability of a municipality to administer a LEAA program. Instead, the success of a direct funding plan is more dependent on the recipients. Seemingly, any governmental system where there is one point of contact, such as in a manager-council form of government, would

be an ideal vehicle for the administration of this recommendation. Also, smaller cities are able to use fewer resources to obtain a given level of output yield. Therefore, it would be quite appropriate that direct federal funding of LEAA program monies also be made available to smaller municipalities.

Second, smaller cities also need to be able to develop our own plans and see our own priorities for the expenditure of program funds from LEAA. In fact, our more simplistic governmental structures facilitates the establishment of clear-cut comprehensive and concise plans and goals—a feature generally not afforded the multi-faceted ultra-complex systems of larger municipal governments.

In conclusion, I respectfully request a thorough re-examination of any restructuring proposal for LEAA in terms of its omission or inapplicability to smaller jurisdictions. Such actions may jeopardize the efficiency and effectiveness of a restructured Law Enforcement Assistance Administration. It is further appropriate that your subcommittee solicit the views of smaller municipalities since we too are affected by the action of this agency. I would appreciate hearing from you regarding our concerns.

Sincerely,

WILLIAM W. WILDMAN, *Mayor.*

THE STATE OF WISCONSIN,
SUPREME COURT CHAMBERS,
Madison, Wis., October 20, 1975.

Re State Courts Improvement Act of 1975 (H.R. 8967).

HON. JOHN McCLELLAN,
U.S. Senate, Senate Office Building,
Washington, D.C.

DEAR SENATOR McCLELLAN: I would like to make you aware of my support for the passage of H.R. 8967 denominated "State Courts Improvement Act of 1975", which was introduced July 28, 1975 by Rep. Peter Rodino, Chairman of the House Judiciary Committee. I believe that the major features of this bill would insure the judiciary of Wisconsin an opportunity for more effective participation in the LEAA Planning and Grant-in-Aid Program, in keeping with the constitutional responsibilities and prerogatives of the judicial branch.

Our past experience with the administration of the "Safe Streets" Act in Wisconsin has not been entirely satisfactory. The courts have not been afforded the opportunity for full participation in the criminal justice planning and grant making process. The portion of the annual LEAA block grant to Wisconsin that has been earmarked for court programs, has been relatively small. Judicial representation on the State Planning Council and the Regional Criminal Justice Planning Boards has not been sufficient to develop state-wide comprehensive court improvement plans that reflect the needs and problems of the Wisconsin court system and have the endorsement of the trial court bench.

Under the provisions of Rep. Rodino's bill, which was endorsed by the Conference of Chief Justices and the Conference of State Court Administrators at their annual meeting in August, the judicial branch would be assured the resources to institute and sustain the judicial planning process and be granted a more equitable share of the LEAA block grant monies to supplement current state and local government expenditures for improvement programs in judicial administration. I would strongly urge your support of H.R. 8967.

Sincerely,

HORACE W. WILKIE, *Chief Justice.*

THE SUPREME COURT,
STATE OF OKLAHOMA,
Oklahoma City, Okla., November 25, 1975.

SENATOR JOHN L. McCLELLAN,
*Chairman, Subcommittee on Laws and Procedures, Committee on the Judiciary,
Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR McCLELLAN: Allow me to take this opportunity to express to you my complete support for the views expressed in the attached copy of Marian P. Opala's statement to your Subcommittee.

The independence of the judiciary is a matter of constant concern to all of us. It is my opinion that H.R. 8067 will rectify some of the unfortunate mechanisms currently hampering that independence.

Kindly share my views with the other members of the Subcommittee.
Best wishes.

Cordially,

BEN T. WILLIAMS.

SUPREME COURT OF CALIFORNIA,
San Francisco, Calif., October 30, 1975.

HON JOHN McCLELLAN,
*Chairman, Senate Judiciary Subcommittee on Criminal Laws and Procedures,
U.S. Senate, Washington D.C.*

DEAR SENATOR McCLELLAN: The purpose of this letter is to call to your attention the serious concern of state judicial systems with the manner in which U.S. Laws Enforcement Assistance Administration (LEAA) funds have been made available for use in the states. Chief Justice Heflin presented the views of the Conference of Chief Justices to your committee on October 22, 1975. I wish to express my strong support for his position and to have that support included in the record of your proceedings.

H.R. 8067 (Mr. Rodino's bill), which I understand will also be introduced in the Senate by Senator Edward Kennedy, embodies the recommendations of a special committee of the National Conference of Chief Justices upon which I serve. The fundamental concepts upon which the bill is based can be stated as follows: (1) strong state court systems are essential to the continued operation of our federal system and they deserve federal support, through LEAA or otherwise; (2) federal funding should be administered in a way that preserves the independence of state judicial systems and encourages them to plan and execute improvements in their operations; (3) federal agencies should work with and through the responsible judicial agencies in each of the states where court improvement is concerned; (4) state courts should have adequate representation on state planning agencies that administer federal grant programs affecting courts; and (5) a specific portion of the block grant funds that are made available should be allocated for state judicial system improvements.

These concepts are placed before Congress because it is the experience of many states that the needs of courts have been overlooked, that the vast majority of the block grant funds have gone to the police and corrections segments of the criminal justice system, and that nonjudicial agencies have undertaken to do the planning for whatever court projects have been funded. The Conference of Chief Justices believes that these problems deserve congressional attention and thinks that Congressman Rodino's bill raises the proper issues. As you consider that bill I would be happy to discuss with you our experiences here in California with the LEAA programs.

Sincerely,

DONALD R. WRIGHT,
*Chief Justice of California and
Chairman of the Judicial Council.*

[FBI Law Enforcement Bulletin, January 1976]

MESSAGE FROM THE DIRECTOR . . .

A steadily rising volume of crime creates an atmosphere of fear haunting all levels of society. It is particularly alarming to those Americans who are most vulnerable—our senior citizens. Unfortunately, scant attention has been focused on this unique and challenging aspect of our crime problem.

In terms of numbers alone, older persons form a significant part of our society. Statistically, slightly over 10 percent of our population—approximately 22 million Americans—are 65 years of age or older. This age group comprises one of the fastest growing segments of our populace, its ranks increasing by about 1,000 persons daily.

Studies indicate that the threat of crime is a major fear for many of our older citizens. It causes a diminishment of their community involvement and a forfeiture of social activities beneficial to them. Fortunately, the most

dreaded criminal acts—homicide and rape—are infrequently committed against persons in their age group.

Most offenses against elderly persons are crimes of opportunity, occurring at or near their residences. Often careless or thoughtless actions on their part make them easy prey to criminally inclined opportunists. Unfortunately, too, economic and social considerations have situated numerous older persons in crime-ridden urban neighborhoods where those most prone to victimize them are prevalent—particularly young hoodlums. The elderly are seldom a match for these robust, fleet-of-foot bandits, and in such an environment, it is not unusual for an elderly person to be victimized repeatedly.

Street crimes such as purse snatchings, muggings, and armed holdups, together with home burglaries and confidence-type frauds, are offenses that most commonly strike the elderly. In the last category, they are victimized out of proportion to their numbers. Typically, of course, older persons are among those least able to afford the depredations of crime. Limited financial resources, fixed incomes, and reduced employment opportunities make even a slight monetary loss a catastrophe. Also, physiological and psychological factors, attendant to aging, make the elderly more vulnerable and less resilient to the trauma and personal injury of criminal attack. Accordingly, crime leaves a deeper, more lasting mark, and injuries incurred may be more disabling and require a longer recovery period.

Traditionally, police have exhibited compassionate concern in dealing with older persons. Generally, however, little or no specialized training in this area has been afforded to officers. Law enforcement can substantially improve its capabilities and effectiveness in serving senior citizens. We must seek to advance through training our understanding of the elderly and their particular crime problems. We must sponsor and support programs for teaching the elderly simple, worthwhile, and inexpensive crime resistance measures they can undertake to protect themselves. Through such endeavors, valuable knowledge can be gained and exaggerated fears dispelled.

Reducing crimes against the elderly and the dread they have for lawlessness can spark a renewed sense of security in older persons and improve the quality of their lives. In providing such assistance, law enforcement will be rendering a vital service while earning the gratitude and greater confidence of our senior citizens.

The wisdom of our elderly citizens is a precious national asset which must be protected from the ravages of crime.

CLARENCE M. KELLEY,
Director.

CONGRESSIONAL RESEARCH SERVICE

V. FUNDS AUTHORIZED, REQUESTED, AND APPROPRIATED FOR LEAA, FISCAL YEARS 1968-76

(In thousands)

Fiscal year	Authorization ¹	Budget request ²	Appropriation
1968.....	\$100,111		
1969.....	100,111	\$98,600	\$63,000
1970.....	300,000	296,570	268,110
1971 ³	650,000	532,200	529,000
1972.....	1,130,000	698,400	698,919
1973 ⁴	1,175,000	855,000	855,597
1974.....	1,000,000	891,124	870,675
1975 ⁵	1,000,000	886,400	895,000
1976.....	1,250,000	769,784	809,638

¹ Authorizations for fiscal years 1968-70 are found in Public Law 90-351, sec. 520 (82 Stat. 208); for fiscal years 1971-73 in Public Law 91-544, sec. 7(C) (84 Stat. 1888); and for fiscal years 1974-76 in Public Law 93-83, sec. 2, amending sec. 520 (87 Stat. 214).

² The 1969 budget request was made by the Johnson administration; no budget request was made for fiscal year 1968 because the enabling legislation was not enacted until June 19, 1968. Subsequent budget requests have been made by the Nixon (1970-75) and Ford (1976) administrations.

³ The initial fiscal year 1971 budget request and appropriation was \$480 million. After passage of the 1971 LEAA amendments, an additional \$52.2 million was requested, and \$49 million was appropriated in a supplemental appropriations act.

⁴ The initial fiscal year 1973 appropriation was \$850,597,000. Subsequently, the administration requested and received a supplemental appropriation of \$5 million.

⁵ The initial fiscal year 1975 appropriation was \$880,600; an additional \$15 million was appropriated in a supplemental appropriation act, "to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974, to remain available until Aug. 31, 1975" (Public Law 94-32).

VII. PARTS B, C, AND E ALLOCATIONS AND AWARDS BY FISCAL YEAR AS OF DEC. 31, 1974

(Amount in thousands)

State	Fiscal year 1969-71	Fiscal year 1972	Fiscal year 1973	Fiscal year 1974	Fiscal year 1975(1/2)	Total
Alabama.....	\$12,859	\$11,165	\$11,175	\$10,197	\$10,186	\$55,582
Alaska.....	2,451	1,489	2,084	2,321	1,174	9,519
Arizona.....	8,890	5,474	6,941	7,961	7,567	36,833
Arkansas.....	7,845	5,098	7,592	9,215	5,959	35,709
California.....	72,368	60,447	64,390	64,260	57,198	318,663
Colorado.....	9,183	9,775	15,991	8,655	12,697	56,301
Connecticut.....	10,950	8,220	9,681	9,510	8,781	47,142
Delaware.....	3,279	2,316	2,139	2,205	1,770	11,709
Florida.....	26,574	19,864	21,287	19,831	22,492	110,048
Georgia.....	16,379	15,147	18,323	19,794	16,349	85,992
Hawaii.....	3,331	2,630	3,544	6,974	2,443	18,922
Idaho.....	4,016	2,632	2,733	2,590	2,275	14,246
Illinois.....	38,729	28,826	35,849	38,512	33,036	174,952
Indiana.....	17,996	13,258	15,223	15,623	15,516	77,616
Iowa.....	9,285	7,158	8,589	8,795	8,634	42,461
Kansas.....	8,539	5,793	6,597	6,899	6,614	34,442
Kentucky.....	13,052	8,518	11,927	9,693	11,733	54,923
Louisiana.....	13,940	13,282	14,962	14,771	11,818	68,774
Maine.....	4,427	2,672	3,454	3,571	3,020	17,144
Maryland.....	14,316	14,588	12,380	11,764	15,452	68,500
Massachusetts.....	21,879	15,317	20,247	19,111	16,246	92,800
Michigan.....	32,504	23,809	30,519	25,757	26,707	139,296
Minnesota.....	14,053	10,822	11,125	13,140	11,255	60,395
Mississippi.....	8,002	6,915	8,664	6,861	6,743	37,185
Missouri.....	17,402	15,758	22,410	21,687	17,960	95,217
Montana.....	3,571	2,169	2,994	3,025	2,168	13,927
Nebraska.....	5,840	4,311	6,772	4,802	4,400	26,125
Nevada.....	3,220	1,770	3,317	3,317	1,799	13,037
New Hampshire.....	3,401	2,425	3,152	2,840	2,327	14,145
New Jersey.....	24,985	22,155	26,435	24,332	25,468	123,375
New Mexico.....	4,422	3,524	3,462	5,257	3,616	20,281
New York.....	59,800	53,310	60,823	55,205	57,015	286,153
North Carolina.....	17,591	13,427	15,529	15,026	14,878	76,451
North Dakota.....	3,136	1,810	2,534	2,578	1,943	12,001
Ohio.....	36,827	33,432	39,760	39,409	30,934	180,362
Oklahoma.....	9,474	6,951	8,264	10,012	7,558	42,259
Oregon.....	7,450	7,734	10,361	16,582	7,376	49,503
Pennsylvania.....	40,985	31,998	35,557	34,509	35,761	178,810
Rhode Island.....	4,200	2,946	3,734	3,037	2,935	16,352
South Carolina.....	10,371	8,491	9,954	8,789	7,707	45,312
South Dakota.....	2,888	1,963	2,679	3,525	2,170	13,425
Tennessee.....	13,267	10,378	11,361	11,414	11,392	57,812
Texas.....	38,415	33,846	36,553	42,123	35,015	185,952
Utah.....	4,252	2,904	3,823	4,085	3,722	18,786
Vermont.....	2,244	1,367	1,816	2,132	1,465	9,024
Virginia.....	16,146	12,572	14,508	13,923	13,800	70,949
Washington.....	11,637	9,170	10,848	10,608	9,612	51,875
West Virginia.....	7,023	5,219	5,738	5,072	5,134	28,186
Wisconsin.....	15,654	11,069	12,761	13,605	14,226	67,315
Wyoming.....	2,074	1,227	1,754	2,143	1,387	8,585
District of Columbia.....	10,533	6,228	5,547	4,796	4,004	31,108
American Samoa.....	452	249	388	363	274	1,726
Guam.....	878	473	599	599	430	2,979
Puerto Rico.....	8,969	6,711	7,777	8,377	7,871	39,705
Virgin Islands.....	1,239	924	589	624	598	3,974
Total.....	763,193	611,727	716,529	711,806	650,610	3,453,865

Source: U.S. Law Enforcement Assistance Administration.

VI. LEAA APPROPRIATIONS HISTORY, FISCAL YEARS 1969-76

[In thousands of dollars]

	1969 actual	1970 actual	1971 actual	1972 actual	1973 actual	1974 actual	1975 actual	1976 estimated
Pt. B—Planning grants.....	19,000	21,000	26,000	35,000	50,000	50,000	55,000	60,000
Pt. C—Block grants.....	24,650	182,750	340,000	413,695	480,250	480,250	480,000	405,412
Pt. C—Discretionary grants.....	4,350	32,000	70,000	73,005	88,750	88,750	84,000	71,544
Total pt. C.....	29,000	214,750	410,000	486,700	569,000	569,000	564,000	476,956
Pt. E—Block grants.....			25,000	48,750	56,500	56,500	56,500	47,739
Pt. E—Discretionary grants.....			22,500	48,750	56,500	56,500	56,500	47,739
Total Pt. E.....			47,500	97,500	113,000	113,000	113,000	95,478
Technical assistance.....		1,200	4,000	6,000	10,000	12,000	14,000	13,000
Research, evaluation and technology transfer.....	3,000	7,500	7,500	21,000	31,598	40,098	42,500	32,400
LEEP.....	6,500	18,000	21,250	29,000	40,000	40,000	40,000	40,000
Educational development.....			250	1,000	2,000	2,000	1,500	500
Internships.....			500		500	500	500	250
Sec. 402 training.....			500	1,000	2,250	2,250	2,250	2,250
Sec. 407 training.....					250	250	250	250
Total education and training.....	6,500	18,000	22,500	31,000	45,000	45,000	44,500	43,250
Data systems and statistical assistance.....		1,000	4,000	9,700	21,200	24,000	26,000	25,622
Juvenile Justice and Delinquency Pre- vention Act (title II).....					15,568	17,428	15,000	39,300
Management and operations.....	2,500	4,487	7,454	11,823	14,200	149	21,000	23,632
Departmental pay costs.....								
Total—Obligational authority.....	60,000	267,937	528,954	698,723	841,723	870,526	895,000	809,638
Transferred to other agencies.....	3,000	182	46	196	14,431	149		
Total appropriated.....	63,000	268,119	529,000	698,919	855,597	870,675	895,000	809,638

¹ An additional \$10 million previously appropriated for LEAA was reappropriated, to remain available until Dec. 31 1975, to carry out title II of the Juvenile Justice and Delinquency Prevention Act.

² Does not reflect the \$7,829 million transferred to other Justice Department Agencies.