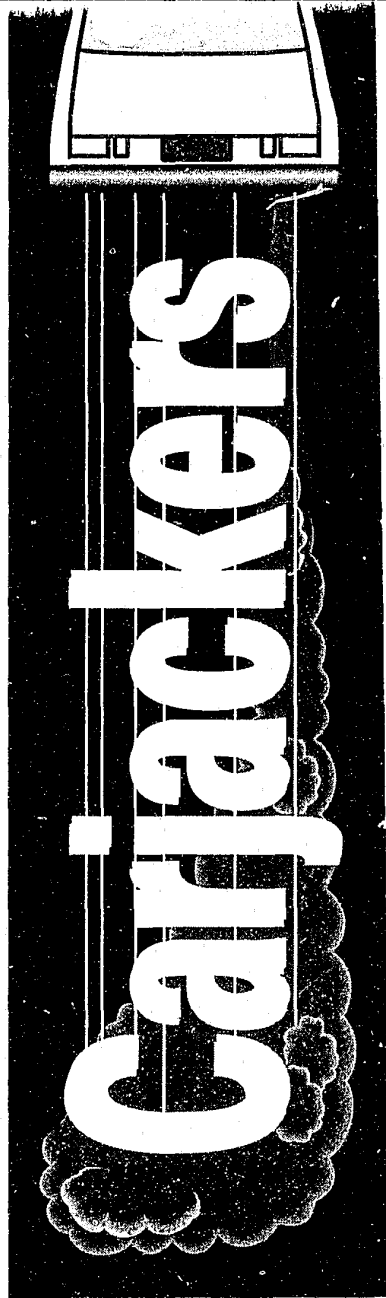


**Get
A
Jump
On**



145265

**U.S. Department of Justice
National Institute of Justice**

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Get a Jump on Carjackers

Carjacking — stealing a car by force — has captured headlines across the country. Statistically your chances of being a carjacking victim are very slim, and preventive actions can reduce the risk even more.



Why Is Carjacking on the Rise?

No one knows for certain, but some explanations include:

It's a crime of opportunity — a thief searching for the most vulnerable prey. Sometimes it's the first step in another crime.

For some young people, carjacking may be a rite of passage, a status symbol, or just a thrill.

Cars, especially luxury ones, provide quick cash for drug users and other criminals.

Sophisticated alarms and improved locking devices make it harder for thieves to steal unoccupied cars.

It's easy to buy, steal, or barter for guns in this country. And a pointed gun makes a powerful threat.

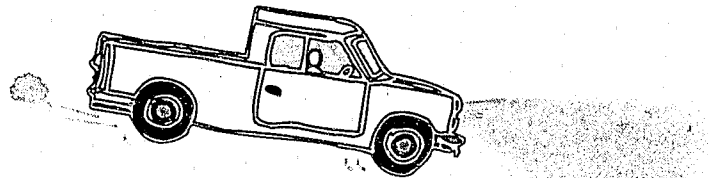
More teens and adults commit crimes of violence than ever before.

Intense media interest may have created "copycat" carjackers.

Anywhere, Anyone

Most local and state criminal codes don't define "carjacking." It's reported as either auto theft or armed robbery. This means that no solid statistics exist on time, place, and victims.

- Though carjackings can occur anytime, a sizable share appear to take place during the late night hours.
- Carjacking isn't just a problem in large cities — it happens in suburbs, small towns, and rural areas.
- Carjackers look for opportunity. They don't choose victims by sex, race, or age.





Windows of Opportunity That Carjackers Look For

- ☐ Intersections controlled by stop lights or signs.
- ☐ Garages and parking lots for mass transit, shopping malls, and grocery stores.
- ☐ Self-serve gas stations and car washes.
- ☐ ATMs (automated teller machines).
- ☐ Residential driveways and streets as people get into and out of cars.
- ☐ Highway exit and entry ramps, or anyplace else that drivers slow down or stop.

Reduce Your Risk

Getting In

Walk with purpose and stay alert.

Approach your car with the key in hand. Look around and inside the car before getting in.

Be wary of people asking for directions or handing out fliers. Trust your instincts — if something makes you feel uneasy, get into the car quickly, lock the doors, and drive away.

On the Road

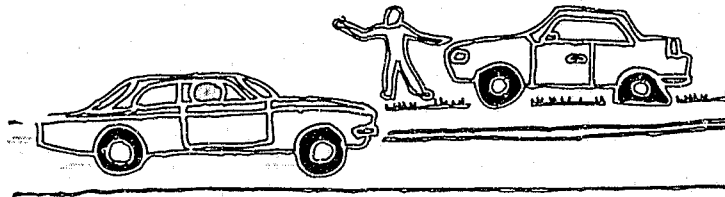
Keep your doors locked and windows rolled up (at least part-way, if it's hot and you don't have air conditioning), no matter how short the distance or how safe the neighborhood.

When you're coming to a stop, leave enough room to maneuver around other cars, especially if you sense trouble and need to get away.

Drive in the center lane to make it harder for would-be carjackers to approach the car.

Avoid driving alone. Go with someone whenever possible, especially at night.

Don't stop to assist a stranger whose car is broken down. Help instead by driving to the nearest phone and calling police to help.



Getting Out

Park in well-lighted areas, near sidewalks or walkways. Avoid parking near dumpsters, woods, large vans or trucks, or anything else that limits your visibility.

Never leave valuables in plain view, even if the car is locked. Put them in the trunk or out of sight.

Try to park in a garage with an attendant. Leave only the ignition key, with no identification.

Even if you're rushed, look around before you get out and stay alert to the surroundings.

If It Happens to You...

If the carjacker threatens you with a gun or other weapon, give up your car. Don't argue. Your life is worth more than a car.

Get away from the area as quickly as possible.

Try to remember what the carjacker looked like—sex, race, age, hair and eye color, special features, clothes.

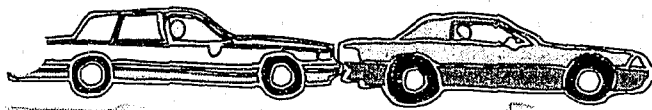
Report the crime immediately to the police.

The "Bump and Rob"

It works like this. A car, usually with a driver and at least one passenger, rear-ends or "bumps" you in traffic. You quickly get out to check the damage and exchange information. Either the driver or one of the passengers jumps in your car and drives off.

If you're bumped by another car, look around before you get out. Make sure there are other cars around, check out the car that's rear-ended you and who's in it. If the situation makes you uneasy, memorize or jot down the car's tag number and description; signal the other car to follow you. Drive to the nearest police station or to a busy, well-lighted area.

If you do get out of the car, take your keys (and purse or wallet if you have one) with you and stay alert.



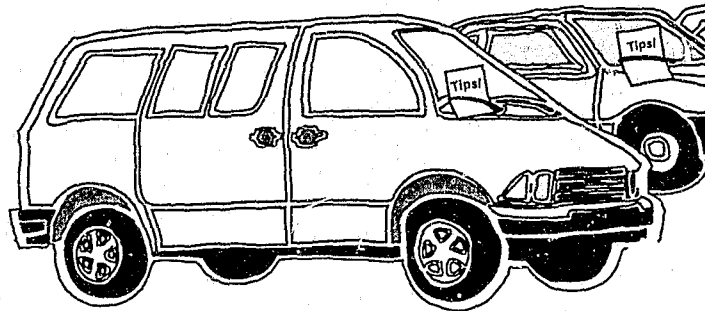
Take Action

Work with Neighborhood Watch groups, law enforcement, automobile clubs, and other concerned groups to get the word out about carjacking prevention. Try a special flier, a community forum, posters.

Make sure that driver education classes talk to teens about preventing carjacking and other auto theft.

Call the local radio station and ask the manager to air carjacking prevention tips during commuting hours.

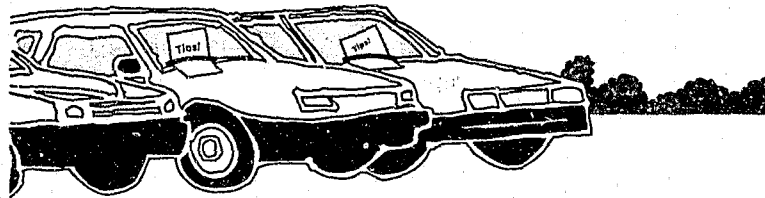
Ask your insurance agent or company to put carjacking and other auto theft prevention information in notices and bills.



Enlist parking lot owners, shopping mall security, and transit authorities to print and distribute educational materials with carjacking prevention tips.

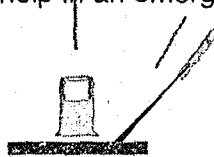
Place carjacking prevention fliers or brochures in the waiting rooms of dealer service departments, auto repair shops and gas stations.

Ask your state's Motor Vehicle Administration to display carjacking and auto theft prevention advice — posters, handouts, etc. — in its offices and distribute prevention tips in all mailings.



Other Rules of the Road

- ❑ Never leave your keys in the car or ignition.
- ❑ Always lock your car, even if it's in front of your home.
- ❑ Copy your tag number and vehicle identification number (VIN) on a card and keep them with your driver's license. Keep the registration with you, not in the car.
- ❑ Keep the keys to your home and car separate.
- ❑ Keep your car in good running condition. Make sure there's enough gas to get there and back.
- ❑ Avoid parking in isolated areas with little foot or auto traffic. Be especially alert in unstaffed lots and enclosed parking garages.
- ❑ If you think someone is following you, drive to the nearest police or fire station, open service station, or other open business to get help.
- ❑ Don't pick up hitchhikers. Don't hitchhike yourself.
- ❑ If you often drive at night, or alone, consider a CB radio or cellular phone to make it easier to summon help in an emergency.



Vehicle Information

Keep this card in a safe place at home and carry a copy with you.

Year _____

Make _____

Model _____

Color _____

VIN _____

Title # _____

Tag # _____

Identifying Marks _____

Insurance Co. _____

Policy # _____



The National Crime Prevention Council is a nonprofit, tax-exempt organization whose mission is to enable people to prevent crime and build safer, more caring communities. Contributions are welcomed and are tax deductible. NCPC is located at 1700 K Street, NW, Second Floor, Washington, DC 20006-3817. Phone: 202-466-6272.



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(c) Criminal investigation

62. Attention should be focused on new methods of criminal investigation and the techniques developed in various countries of "following the money trail". Important in that context are the following: orders by the competent authority for the production of, or the search for and seizure of, documents relevant to following the money trail; orders requiring financial institutions to provide information to facilitate the following of the money trail and requiring institutions to preserve records to maintain the money trail; monitoring orders directing a financial institution to provide information during specified periods on transactions conducted through accounts held by a particular person; and requirements to report suspect transactions such as large-scale cash transactions through appropriate authority.

63. The use of telecommunication and electronic surveillance is also relevant to human rights considerations.

64. Schemes for the protection of witnesses against violence and intimidation are becoming increasingly important in criminal investigation and trial process. Co-ordination and trial procedures should involve the provision of protection and physical protection, relocation, monetary support and other assistance.

(d) Law enforcement

65. Law enforcement has a crucial role in programmes against organized crime. It is essential to ensure that law enforcement agencies have adequate powers, resources and human rights safeguards. Consideration should be given to the necessity of a specialized agency, with an interdisciplinary team, to deal specifically with organized crime.

2. International co-operation

66. The transnational dimensions of organized crime require urgent development of new and effective co-operative arrangements and the promotion of better understanding and more widespread use of those processes on a more comprehensive basis. Exchange of information between relevant agencies of Member States is also an important activity that needs to be strengthened and further developed.

67. Model legislation for the forfeiture of assets from illegally acquired property should be developed.

68. Specific strategies and methods should be developed for erecting stronger barriers between legitimate financial markets and the market in illegally acquired capital, and co-operative arrangements applicable to offshore finance and to operations involving global electronic fund transfers should be devised, through the close co-ordination of the international organizations and agencies concerned.

69. Consistent and continuous global international interdiction efforts, combining the exchange of the necessary data and operational resources, should be encouraged and undertaken.

70. Technical co-operation in its various forms, with expanded advisory services, should be strengthened in order to share common experiences and innovations and to assist countries in need.

71. Modern technological advances should be utilized in the area of passport and travel controls, and efforts should be encouraged to monitor and identify cars, boats, aircraft or other objects subject to transnational theft or transfer.

72. Secure global, regional and national data bases containing law enforcement, financial and offenders' records should be established or expanded.

73. Regional conferences bringing together members of the law enforcement, prosecution and judicial authorities should be encouraged.

74. Mutual assistance in the transfer of criminal proceedings and the enforcement of criminal judgements, including confiscation and forfeiture of illegal assets, should be further considered.

75. Comparative research and data collection related to issues of transnational organized crime, its causes, its links to domestic instability and other forms of criminality, as well as its prevention and control, should be supported.

76. The United Nations interregional and regional institutes and concerned intergovernmental and non-governmental organizations should give increased attention to the issue of organized crime.

77. The United Nations Development Programme and other funding agencies of the United Nations system, as well as Member States, should be urged to strengthen their support for national, regional and international programmes on the prevention and control of organized crime.

78. The importance of formulating model mutual assistance and extradition treaties for bilateral negotiations between concerned States was particularly stressed as an effective way of dealing with the complex aspects, consequences and modern evolution of transnational organized crime. In that connection, the Meeting expressed appreciation for the initiative of two experts in submitting relevant drafts of such models that could be used as a basis for further elaboration. The two drafts are annexed to the present report (see para. 32 above).

79. In view of the need for further consideration of the drafts, it was decided that the experts should forward written comments and observations as appropriate to enable the Secretariat to prepare a revised version for submission to the Committee on Crime Prevention and Control at its tenth session. In that connection, the Committee is invited to review the drafts with a view to their further consideration by the regional preparatory meetings for the Eighth Congress and subsequently by the Eighth Congress itself.

B. Criminal terrorist activities

80. The Interregional Preparatory Meeting, having reviewed the relevant paragraphs of the Discussion Guide for the interregional and regional preparatory meetings for the Eighth Congress, which recalled the relevant General Assembly resolutions, such as 1186 (XII) of 11 December 1957, 2625 (XXV) of 24 October 1970, 3034 (XXVII) of 18 December 1972, 3166 (XXVIII) of 14 December 1973, 34/146 of 17 December 1979 and 40/61 of 9 December 1983, as well as the work of the Ad Hoc Committee on International Terrorism and resolution 23 of the Seventh United Nations Congress on the Prevention of

Crime and the Treatment of Offenders, and having examined the recommendations contained in the report of the meeting of the Ad Hoc Group of Experts on International Co-operation for the Prevention and Control of the Various Manifestations of Crime, including Terrorism, after extensive discussion and exchange of views decided to adopt the following conclusions and recommendations for national action and international co-operation in the struggle against transboundary terrorist activities, with a view to their submission to other preparatory meetings, to the tenth session of the Committee on Crime Prevention and Control and to the Eighth Congress.

1. Definition

81. Since the first study of the phenomenon by the United Nations in 1972, the international community has been unable to arrive at a universally agreed meaning of what is included in the term international terrorism. Nor has it reached sufficient general agreement on the measures needed to prevent and control the harmful manifestations of acts of terrorist violence.

82. The need to have a specific definition of international terrorism is however of questionable value for the prevention and control of the manifestations of the phenomenon. A preferred approach is to identify conduct that the international community deems unacceptable, and that it agrees to prevent and control by developing effective means for the implementation and enforcement of measures, in accordance with established principles of international law.

83. The prevention and control of what is generally referred to as international terrorism requires a specific identification of the precise conduct deemed to fall within that term. Furthermore, the international community must understand the underlying causes that bring about such conduct in order to develop measures for its prevention and control.

2. Identification of the problems

84. Existing international norms may not in certain areas be sufficient to control all forms and manifestations of terrorist violence. The following issues are of particular concern: the absence of a clear definition of innocent civilians; the limits of the use of force in connection with wars of national liberation and conflicts of a non-international character; the limits of the use of force by States in response to what they may perceive as constituting acts of terrorist violence; State policies and practices that may be considered by other States as constituting a violation of international treaty obligations; the absence of specific norms on State responsibility in failing to carry out existing international obligations; the abuse of the privilege of diplomatic immunity and the diplomatic pouch; the absence of norms concerning the responsibility of States for acts not prohibited by international law; the absence of international regulation and control of the traffic and trade in arms; the inadequacy of international mechanisms for the peaceful resolution of conflicts and for the enforcement of internationally protected human rights; the lack of universal acceptance of the principle aut dedere aut iudicare and the lack of sufficient international co-operation in the effective and uniform prevention and control of all forms and manifestations of terrorist violence; and the absence of international norms on the use of mercenaries.

3. International co-operation for the effective and uniform prevention and control of terrorism

85. Effective measures for international co-operation in the prevention of terrorist violence should be developed at the international, regional and

bilateral levels. These include: co-operation between law enforcement agencies, prosecution authorities and the judiciary; increasing integration and co-operation within the various agencies responsible for law enforcement and criminal justice, with due regard to fundamental human rights; inclusion of modalities of inter-State co-operation in penal matters at all levels of enforcement and criminal justice; increasing education and training of law enforcement personnel with regard to prevention and modalities of international co-operation in penal matters, including the development of specialized courses on international criminal law and comparative penal law and procedures as a part of legal education as well as professional and judicial training; the development of both general educational and public awareness programmes through the mass media in order to enlighten the public on the dangers of terrorist violence.

4. Jurisdiction

86. Greater uniformity in the laws and practices of States concerning both criminal and extraterritorial jurisdiction should be encouraged, and over-extension of territorial jurisdiction should be avoided in order to prevent unnecessary legal conflicts between States.

87. Jurisdictional priorities should be established giving territoriality the first priority, followed by other principles in accordance with existing international law.

5. Extradition

88. Extradition should be facilitated as one of the most effective procedures for implementing the principle aut dedere aut iudicare, and States should endeavour to develop and effectively implement international extradition treaties, be they part of multilateral conventions, regional conventions or bilateral treaties.

89. The political offence exception should not be a bar to extradition for crimes of terrorist violence under existing international conventions, except where the requested State decides to undertake prosecution of the requested person or transfer the proceedings to another State to conduct the prosecution. In that connection, a draft bilateral model treaty on extradition is annexed to the present report.

90. States are encouraged to rely on existing extradition provisions in multilateral treaties whenever there is an absence of bilateral treaties.

91. In view of the increasing number of multilateral and bilateral treaties, the United Nations should consider the elaboration of a multilateral extradition treaty covering all forms and manifestations of terrorist violence dealt with in previous international conventions. Such a treaty could complement the existing treaties. Alternatively, the United Nations should consider the elaboration of a multilateral treaty to remove gaps and loopholes in existing treaties and current extradition procedures.

92. Lawful alternatives to extradition, such as deportation or voluntary return subject to appropriate judicial guarantees, should be encouraged.

6. Mutual assistance and co-operation

93. The prevention and control of terrorist violence depends on effective mutual co-operation and assistance between States in securing evidence with respect to the prosecution or extradition of the offenders.

94. States are encouraged to lend each other the widest possible mutual assistance and co-operation in penal matters, subject to respect for internationally recognized human rights, and to rely on the relevant provisions of multilateral treaties and specific regional and bilateral treaties. To help achieve this end, a model bilateral draft treaty on mutual assistance is annexed to the present report.

7. Non-applicability of defences

95. The defence of "obedience to superior orders", "act of State" and other eventual international immunities should not apply with respect to persons who have violated international conventions prohibiting acts of terrorist violence.

8. Conduct of States

96. States that by their conduct violate international law and resort to terrorist violence should be more effectively curbed by the international community, and the United Nations should develop mechanisms for the control of such behaviour, particularly through the strengthening of United Nations machinery for the protection of human rights and the preservation of peace and security.

9. Protection of targets of high vulnerability

97. Contemporary societies rely increasingly on various technological and scientific means for satisfying common needs, and such means may offer opportunities as targets of terrorist attack, with possibly devastating consequences. The United Nations, in co-operation with the specialized agencies concerned, should convene a conference of experts to identify such highly vulnerable targets and to develop appropriate measures for their protection.

10. Control of weapons, ammunition and explosives

98. States should develop appropriate national legislation for the effective control of weapons, ammunition and explosives and other dangerous materials that find their way into the hands of persons who could use them for the purposes of terrorism.

99. International regulations on the transfer, import, export and storage of such objects should be developed so that customs and border controls can be harmonized to prevent their transnational movement, except for established lawful purposes.

11. Protection of victims

100. States should establish appropriate mechanisms for the protection, and introduce relevant legislation for the assistance, of victims of terrorism, in accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. 8/

12. Protection of witnesses

101. States should adopt measures and policies aimed at the effective protection of witnesses of terrorist acts.

13. Treatment of offenders

102. Among the aims of criminal law are deterrence, prevention and the resocialization of offenders, but such aims can seldom be achieved with respect to ideologically motivated offenders. It is therefore recommended that studies be undertaken concerning such offenders, that programmes be designed for them during their imprisonment, and that alternative measures of correction and programmes oriented to social defence be developed.

103. Consideration should be given to the establishment of a uniform standard of penalties to be imposed on terrorists in different countries in order to eliminate significant disparities.

104. All offenders must be treated without discrimination and in accordance with internationally recognized human rights, as enunciated in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Slavery Convention, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, the Forced Labour Convention, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Standard Minimum Rules for the Treatment of Prisoners. 9/

14. The role of the mass media

105. States should consider the development of guidelines for the mass media or encourage the establishment of voluntary guidelines to control the following: sensationalizing and justifying terrorist violence; dissemination of strategic information on potential targets; and dissemination of tactical information while terrorist acts are taking place, thereby possibly endangering the lives of innocent civilians and law enforcement personnel or impeding effective law enforcement measures to prevent or control such acts and to apprehend the offenders.

106. Nothing herein is intended to restrict the internationally recognized basic human right of freedom of speech and information or to encourage interference in the domestic affairs of other States.

15. Codification of international criminal law
and creation of an international criminal court

107. International criminal law should be codified and the work of the International Law Commission on various aspects of codification should be encouraged, in co-operation with the Committee on Crime Prevention and Control.

108. The possibility of establishing a special penal jurisdiction within the International Court of Justice, or a separate international criminal court, should be considered. Such drafts as the 1951 and 1953 draft statutes for the establishment of an international criminal court and the 1980 draft statute for the establishment of an international jurisdiction to implement the International Convention on the Suppression and Punishment of the Crime of Apartheid 10/ should be considered.

16. Enhancing the effectiveness of international co-operation

109. The United Nations, in co-operation with specialized agencies such as the International Civil Aviation Organization, the International Maritime Organization, and the International Atomic Energy Agency, should prepare

annual reports on compliance with existing international conventions, including detailed reporting on incidents and cases (arrest, prosecution, adjudication and sentencing), to be made available for international circulation.

110. States signatory to international conventions prohibiting terrorist violence are urged to ratify those conventions at the earliest opportunity and to take effective measures to enforce their provisions.

111. States that are not signatories to international conventions prohibiting terrorist violence are urged to accede to such conventions at the earliest opportunity and to take effective measures to enforce their provisions.

112. States are urged to sign and ratify the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, adopted by the conference of the International Maritime Organization, held at Rome in 1988, and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, adopted by the International Conference on Air Law, convened by ICAO, at Montreal from 9 to 24 February 1988.

113. The United Nations should develop ways and means to encourage prevention policies, strategies and action by States to ensure the effective implementation of relevant international conventions, including enhanced co-operation at the law enforcement, prosecution and judicial levels.

114. A system of reporting and monitoring acts of terrorist violence and the responses of States should be developed within the United Nations, and annual reports should be made and widely circulated to Member States.

115. The central role of the United Nations, and in particular of the Crime Prevention and Criminal Justice Branch, should be strengthened in order to fulfil the above-mentioned objectives and other purposes of the Organization, including the preservation of peace, the strengthening of world order and the combating of criminality.

IV. ADOPTION OF THE REPORT AND CLOSING OF THE MEETING

116. The provisional report was presented to the Meeting by the Rapporteur and unanimously adopted by the experts.

117. The Director of the Social Development Division of the Centre for Social Development and Humanitarian Affairs of the United Nations Office at Vienna noted that the great complexity of the problems discussed by the Meeting could be attributed to the following three factors: their highly political nature; the powerful resources available to both organized crime and terrorism; and the serious discrepancy between the full recognition of the need for effective international countermeasures and the degree of political will to implement such measures, or, in other words, between what was desirable and what was possible. He believed that the Meeting had succeeded in its task of reducing that discrepancy. Further efforts would have to be made to deal with the cause-and-effect dimension of the problem in a manner free from bias and preconceived ideas. Only the United Nations, as the organization offering the broadest basis for international co-operation, could succeed in such an

undertaking. Within the United Nations, however, there was a need for closer co-operation between bodies concerned with different aspects of the problem, such as the Committee on Crime Prevention and Control, the International Law Commission and the Sixth Committee of the General Assembly.

118. The Chief of the Crime Prevention and Criminal Justice Branch noted that the far-reaching recommendations adopted by the Meeting had been based on a recognition of the importance of international co-operation in the fight against transboundary criminality and, in particular, against organized crime and terrorism. All countries should therefore work together to ensure their implementation.

119. In his closing remarks, the Chairman of the Meeting warned that, as developed countries became more successful in combating organized crime, such criminal activities might be increasingly transferred to developing countries, where institutions and processes were not yet fully capable of dealing with them. The Meeting had alerted the international community to the growing dangers confronting both developed and developing countries. Political will and concerted action were now needed to implement the adopted recommendations.

Notes

1/ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. A.

2/ See Seventh United Nations Congress ..., chap. I, sect. E.

3/ Ibid.

4/ Ibid.

5/ General Assembly resolution 2625 (XXV), annex, of 24 October 1970.

6/ See Seventh United Nations Congress ..., chap. I, sect. E.

7/ Ibid., sect. B.

8/ Ibid., sect. C.

9/ Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.83.XIV.1).

10/ Ibid.

Annex I

LIST OF PARTICIPANTS

Experts invited by the Secretary-General

Carmen Antony (Panama), Professor of Criminology

M. Cherif Bassiouni (United States of America), Dean, International Institute of Higher Studies in Criminal Sciences, and Secretary-General of the International Association of Penal Law

Ahmed Galal Ezeldin (Egypt), Deputy Minister of Interior

Vasili P. Ignatoff (Union of Soviet Socialist Republics), Head of Organization and Inspection Office, Ministry of Internal Affairs

H.E. Paul Kwanga Ssemogerere (Uganda), Minister of External Affairs and Deputy-Prime Minister

Peter Loof (Australia), Chairman of the Board, Australian Institute of Criminology, and Attorney-General's Department (Australia)

Luis Lamas-Puccio (Peru), Professor of Criminal Law and Presidential Adviser

Abdul K. Nasution (Indonesia), Chief, Directorate of Education and Training Centre of the Attorney-General's Office

Stanislaw Pawlak (Poland), Director, Department of International Organizations, Ministry of Foreign Affairs, and Member of the International Law Commission

Panat Tasneeyanond (Thailand), Dean of Law School

Representative of the Committee on Crime Prevention and Control

Miguel Sanchez-Mendez (Colombia)

States Members of the United Nations
represented by observers

Australia, Austria, Bulgaria, Canada, France, German Democratic Republic, Germany, Federal Republic of, Indonesia, Iran (Islamic Republic of), Nigeria, Philippines, Thailand, Ukrainian Soviet Socialist Republic, United Kingdom of Great Britain and Northern Ireland, United States of America.

United Nations Secretariat units

Department of Technical Co-operation for Development

Economic Commission for Latin America and the Caribbean

United Nations bodies

Helsinki Institute for Crime Prevention and Control affiliated with the United Nations

United Nations Division of Narcotic Drugs

United Nations Social Defence Research Institute

Intergovernmental organizations

Arab Security Studies and Training Centre

International Criminal Police Organization

League of Arab States

Non-governmental organizations

Airport Associations Coordinating Council

Centro Nazionale di Prevention e Difesa Sociale

International Association of Judges

International Centre of Sociological, Penal and Penitentiary Research and Studies

International Commission of Jurists

International Confederation of Free Trade Unions

International Federation of Human Rights

International Federation of Senior Police Officers

International Institute of Humanitarian Law

International Penal and Penitentiary Foundation

International Society of Social Defence

Pax Christi International

Symposium Freedom and Security

Third World Academy of Sciences

World Safety Organization

Individual observers

Richard H. Ward, Office of International Criminal Justice, University of Illinois

Annex II

DRAFT BILATERAL MODEL TREATY ON MUTUAL ASSISTANCE
IN CRIMINAL MATTERS*

The _____ and the _____,

Desiring to extend to each other the widest measure of co-operation to combat crime,

Have Agreed as follows:

ARTICLE 1 - SCOPE OF APPLICATION

1. The Contracting Parties shall, in accordance with this Treaty, grant to each other assistance in investigations or proceedings in respect of criminal matters.
2. Criminal matter includes matters connected with revenue offences and foreign exchange control offences.
3. Such assistance shall consist of:
 - (a) Taking of evidence and obtaining statements of persons;
 - (b) Provision of documents and other records;
 - (c) Location and identification of persons;
 - (d) Execution of requests for search and seizure;
 - (e) Measures to locate, restrain and forfeit the proceeds of crime and to recover pecuniary penalties in respect of offences;
 - (f) Making prisoners available to give evidence or assist investigations;
 - (g) Making other persons available to give evidence or assist investigations;
 - (h) Service of documents; and
 - (i) Other assistance consistent with the objects of this Treaty which is not inconsistent with the law of the Requested State.
4. Assistance shall not include:
 - (a) The arrest or detention of any person with a view to extradition;
 - (b) The execution in the Requested State of criminal judgements imposed in the Requesting State except to the extent permitted by the Laws of the Requested State and this Treaty; and
 - (c) The transfer of prisoners to serve sentences.

*Submitted by Peter Loof on behalf of the Government of Australia.

ARTICLE 2 - OTHER ASSISTANCE

1. This Treaty shall not derogate from obligations subsisting between the Contracting Parties whether pursuant to other treaties or arrangements or otherwise nor prevent the Contracting Parties providing assistance to each other pursuant to other treaties or arrangements.

ARTICLE 3 - CENTRAL OFFICE

1. The Contracting Parties shall each appoint a Central Office to transmit and receive requests for the purpose of this Treaty.

2. Requests for assistance shall be made through the Central Offices which shall arrange for the prompt carrying out of such requests.

ARTICLE 4 - REFUSAL OF ASSISTANCE

1. Assistance shall be refused if:

(a) The request relates to an offence that is regarded by the Requested State as:

(i) An offence of a political character; or

(ii) An offence under military law of the Requested State which is not also an offence under the ordinary criminal law of the Requested State;

(b) The request relates to an offence in respect of which the offender has been finally acquitted or pardoned or has served the sentence imposed on him;

(c) There are substantial grounds for believing that the request for assistance has been made to facilitate the prosecution of a person on account of that person's race, sex, religion, nationality or political opinions or that that person's position may be prejudiced for any of these reasons; or

(d) The Requested State is of the opinion that the request, if granted, would seriously impair its sovereignty, security, national interest or other essential interests.

2. Assistance may be refused if:

(a) The request relates to an offence where the acts or omissions alleged to constitute that offence would not, if they had taken place within the jurisdiction of the Requested State, have constituted an offence;

(b) The request relates to an offence which is committed outside the territory of the Requesting State and the law of the Requested State does not provide for the punishment of an offence committed outside its territory in similar circumstances;

(c) The results of the request for assistance are to be used in relation to an offence which, had it been committed in the Requested State, could no longer be prosecuted by reason of lapse of time or any other reason; or