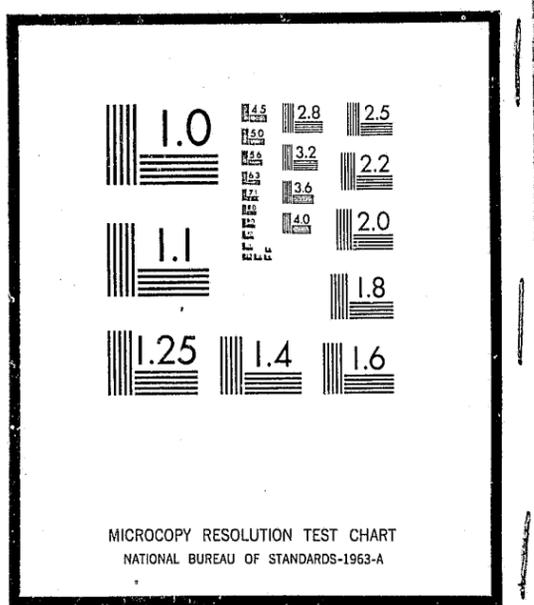


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LAW ENFORCEMENT ASSISTANCE ADMINISTRATION  
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9/14/76

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APPENDIX ITEMS A-B-C-D

TO

FINAL REPORT ON IACP

AND

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

GRANT 74 DF-99-0015

POLICE EXECUTIVE MANAGEMENT SEMINARS

OF THE

DIVISION OF STATE AND PROVINCIAL POLICE

FEBRUARY 1975

Presented By

POLICE MANAGEMENT AND OPERATIONS DIVISIONS

READING ROOM

25185



INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, INC.

APPENDIX A

TRANSCRIPTION OF  
NORTH ATLANTIC REGIONAL CONFERENCE PROCEEDINGS

WEST VIRGINIA  
DEPARTMENT OF PUBLIC SAFETY

Hosting

NORTH ATLANTIC REGIONAL CONFERENCE

Division of  
STATE AND PROVINCIAL POLICE  
INTERNATIONAL ASSOCIATION  
OF  
CHIEFS OF POLICE

May 20 - 23, 1974

Chairman

Colonel Robert L. Bonar  
Superintendent

West Virginia  
Department of Public Safety

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## WELCOME AND INTRODUCTIONS

### Mayor John Hutchinson, Mayor of Charleston:

Let me, on behalf of the citizens of Charleston, West Virginia, and on behalf of West Virginians all over the state, welcome you to our capital city for this conference. It is a pleasure to have you here. This is your first meeting in Charleston. We hope you will enjoy our town well enough that some day you would like to come back for another meeting. If there is any level of government or any administrative official in government who would be more appreciative than the Governor of what the police do, or the security of enforcement officers do, it would be in a city as the Mayor. As an active member in the United States Conference of Mayors and chairman of one of our standing committees, we are appreciative of the dedication of the sense and purpose and duty of our police officers across this great country of ours and in Canada and the sense of growing professionalism that you gentlemen, by your own leadership, have sought to instill in our police forces. It's nice to have you in Charleston. If there is anything I can do for you or my office can do for you while you're here, please give us a call.

### Colonel Bonar:

The program this morning will be introductions. I would like to give special recognition to a couple individuals that are in our midst, and I think we will probably, each one of us, stand up and introduce ourselves. I would like to give recognition this morning to Chief Shook of Levittstown, who is the Fourth Vice President of the International Association of Chiefs of Police.

### Chief Shook:

Today, more than ever, we in law enforcement bear a heavy responsibility to combat the rising crime that is a challenge to our citizens and to our government. I believe, therefore, that the primary purpose of any conference of professional men is self-improvement. To accomplish this, it is imperative that we engage in seminars with distinguished experts in various areas of law enforcement. It is also imperative that we seek ways and means to more efficiently fulfill our common task of protecting the public welfare. During the next two days you will be able to exchange views and discuss mutual problems in a spirit of understanding and friendship. On behalf of our

President and the Board of Officers of the IACP, I wish you a successful and meaningful conference and trust that the continued cooperation between the Board and the members of the State and Provincial Division will exist for many years to come. Thank you very much for being here.

Colonel Bonar:

Thank you, Chief. You are welcome any time. I'm sure the Mayor extended that invitation to Levittstown also. Thank you, Sir. The next gentleman that I would like to introduce is one of our own, of course, and I would like to introduce the General Chairman of the State and Provincial Division of the IACP, Colonel John Plants, Director, Michigan State Police.

Now, of course, I want to welcome all of you to what used to be West-by-God-Virginia, and they finally changed that around to Wild and Wonderful West Virginia and now they have it, I believe, Almost Heaven. I think the airport represents the fact that, Dick, while you are up there why you were pretty close to heaven or maybe that's as close as any of us will ever be. Really, we haven't had that much of a problem with our airport.

Gentlemen, we do have another man that is with us this morning who has taken time from a busy schedule. He must, I understand, leave immediately for another meeting back in Washington. At this time, I would like to introduce this gentleman who will be the speaker on our program. We have moved the agenda up since he is in a hurry. I would like to read the biosketch for Dr. Gregory.

Dr. Gregory is a native of California and has more than twenty years of experience in industrial research and technical administration specializing in environmental science, products development and material testing.

Dr. Gregory was born April 2, 1925, and holds a Bachelor's Degree from Whittaker College and a Ph. D. in chemistry from Stamford University. He has also taken executive courses at the Harvard School of Business. A former air force officer during World War II, he has served as a navigator and was a prisoner of war in Germany. Dr. Gregory began a distinguished 21-year career with the Union Oil Company of California in 1951 where he started work as a research chemist. After holding a number of key positions as an administrative scientist with Union Oil, he was named Manager of Environmental Sciences in 1970 before resigning early in 1972. Since that time, among other activities, he and his wife who is a physician, helped establish a home for orphaned American-Indian children in northern New Mexico. Dr. Gregory

was appointed by President Nixon to serve as the administrator of the National Highway Traffic Safety Administration, U. S. Department of Transportation, in July 1973. In his last two years at Union Oil, Dr. Gregory was responsible for research and development of environmental protection methods and carried out extensive communication programs on environmental matters including frequent personal radio and TV appearances before community and consumer groups. Dr. Gregory is a member of numerous technical and professional and honorary societies including the American Chemical Society, and the Society of Automotive Engineers. He and his wife have one daughter, Linda, age 22.

Dr. Gregory:

I am certainly pleased to be here with a group that is very vital to highway safety. I only regret that I cannot be at other regional meetings that I know your Association is holding, but I was gratified that we could make it down here. I came to the Department of Transportation a little over nine months ago, I guess, or it will be nine months shortly; and I suppose I've gotten a reputation of being a bottom-line type of guy and maybe that needs a little explanation. I think that the fundamental objective of our agency is to help and offer the leadership, at least, in reducing fatalities and injuries and, of course, economic losses as part of traffic accidents. That is the bottom line. If we can attack the basic problem of the number of accidents, the number of injuries, the severity of injuries and the number of fatalities, and keep that uppermost in our minds, I think this is where we should go. I am further convinced that a most practical way of getting there really is to use a management technique that is probably known in the federal government today as Management by Objectives. Maybe that needs a little explanation. This means that all of us sort of speak the same language. We try to figure out in our own states and in our own communities just where an impact will be made in the traffic safety area. So, working with the states, working with groups like this, working with representatives that have a direct responsibility for traffic safety, working with them to emphasize the problem, identification, getting the data, analyzing the data and determining what are the best solutions of the problem is certainly number two. Number three, I think, is making sure that everyone participates and has something to say and a lot of them have their say. This means not only federal, feds as we are known - sometimes we're known as dirty feds, but state people, and certainly the local people and the community people working together in their particular areas of expertise and their particular areas of impact. And then have a commitment, all of us, not toward just doing a good job but trying to

emphasize these goals and objectives that I have indicated.

The next thing we need is a strong evaluation of feedback to each other, what we find out as a result of our programs at the federal level, what you find out, what you know at the state and community level -- an interchange of information. This is what we need and what we have lacked, I think, over a period of years. God knows we've been at this traffic stuff for about 50 years. Didn't it start about 1924? We still don't know the answers, and I doubt that 50 years from now if anybody can claim to know all the answers. But we have to keep working on what the problems are and what the best answers are and emphasize that in our work. So I can't emphasize really the importance that I attach to the jointly shared programs and responsibilities of the states, regions and community, because that is where the problem is really going to be solved -- down along the roads and on the streets and the theatre section, and all that is covered at one time or another. We are going to win this battle for improved safety; it's going to be one in terms of better drivers, better legislation, certainly better enforcement, better adjudication, better emergency services-- sort of cover the gap for the traffic safety problem. All of this will lead to the bottom line -- the bottom line that is reported by your individual communities, by your individual states, because we in Washington can keep track of the national bottom line but, frankly, without the help of the guys out here where it's at. We are not going to change that national bottom line one bit.

I'm sure that all of you constantly share the distress that we do at looking at the bottom line. Of 57,000 fatalities on our highways in 1972, I rest assured that you are following with great interest what has been happening since late 1973 which has become really a welcomed by-product. Perhaps the only good news to come out of the energy shortages that we face. Our figures for 1973 indicate that just slightly over 56,000 fatalities occurred. And that's down over a thousand from what we saw in 1972 and it's down almost 2,000 from what we were predicting for the total of 1973. We were predicting close to 58,000. I think it's noteworthy that the fatality rate in 1973 was on the order of 4.3, that's 4.3 fatalities per one hundred million miles driven. That's the lowest in history and it's about 22 percent below the fatality rate back in 1966 - some seven or eight years ago when the federal/state program and the partnership started, and when the Acts were passed and allowed us to get going on a national effort. Just because we are down doesn't mean that everything has come as a matter of the energy shortage. We have been seeing a drop continuously in certain instances due to all of the efforts, not only at the federal level, although I tend to mumble about that most. It's certainly due to the individual states and communities and

the individual driver's efforts for those who have gotten the message and have become concerned about our traffic accident and injury and fatality program. As a matter of fact, I think we have been doing a lot of things right. I should say that you have been doing a lot of things right.

Maybe it's a good idea to just find out how far we've come in trying to make our motor vehicles and highways safer. We should encourage our drivers to become a little more confident and alert to the real dangers that are happening out there on our highways. We calculate that if that surging rise that we saw in the fatality rate during the 1960s had continued, we probably would have seen something on the order of 78,000 people dying on our highways in 1972 or about 36 percent more than we did see than the 57,000 that I mentioned -- that's 1972. Late last month, our agency announced that the number of people killed on the nation's highways was down again in March. This is the fifth consecutive month since the energy shortage, and because of the lower speed limits, traffic fatalities declined compared to a year ago. The reduction is obvious to all of us who have any idea of the problem. One, reduce speed limits and I know you have taken on some problems with the reduced speed limits in the enforcement field. The other was less driving. Just because there weren't some constraints put on people being able to get gasoline - with the conservation psychology, people were not out on the roads as much. We saw a change even with the order of 95 percent gasoline usage as compared to a year ago. People have changed their habits. I think their trips tend to be shorter, for instance. We are looking into this and hopefully we can get a national picture that will be meaningful to you, and may help you in programming your enforcement efforts.

March was a significant month for several reasons. For one thing, it marked the first month that all 50 states had enacted and were observing the 55 m. p. h. speed limit. The impact on highway safety was clear. More than 1,000 lives were saved in March of 1974. Actually, the number was 1,092 - almost 1,100 people by our final count. In other words, it was a reduction of 25 percent, not in fatality rate but in actual numbers in March 1974 over March 1973. By April, the long lines at gasoline stations sort of dried up. You very seldom see more than two, three or four cars at a station, at least in Washington. I don't know what it is like here. So we figured that, based on similar reports from around the country, supplies were greater. Peoples' habits have changed, perhaps a little bit.

But by and large, the psychology seemed to be that the crisis - the severe crisis was over. And I think it was to a large extent. I think that we have to remain conservation minded. We felt that maybe in April, we would see a very significant shift. I'm going to hold a press conference tomorrow, I think it is, and announce the figures. But I'll whisper to you - I don't want to upstage or sandbag my own press conference. It isn't as bad as I personally was predicting. Well, what does this mean? I think it means to me right now, and I have to review the final figures that are coming in now - but for right now, I'd say that although fewer cars are on the road and the trips, by and large, have changed in character, I think there is little question that the 55 mph speed limit is a major and perhaps the major factor from what we have seen. In our April reports, hopefully we will be able to modify this a little bit more.

This has been a nagging question to me -- how much is speed, how much is exposure in this very, very dramatic situation -- I mean 25 percent reduction of fatalities in the same order of magnitude for injuries. That's what we see nationally, although it may vary from state to state and community to community. How much is speed and how much was really basic exposure? I think that the message is clear, however, We can change the bottom line. And, by the way, I think there were only two states in March that didn't show a decrease. The two states that didn't were small ones where the numbers were small and, therefore, the noise and the numbers could very well prompt statistical analysts to say that those two could just as well have been reduced rather than increased. I don't think there is one thing pre-ordained about the fatality picture. I hope the message comes through clearly to all of the motorists, that if you change your habits something happens to the bottom line. Hopefully, this type of message can be projected in other areas of traffic safety. And there are other areas of law enforcement perhaps. I would hope so.

We are about to go into a Memorial weekend and traditionally, you know, we've also pointed to long weekends as not so much that they're much different from other three-day periods around the weekend but at least we have an opportunity to talk about fatalities. Well, I hope throughout the nation that this 55 mile an hour speed limit will be enforced as well as it can be. I hope that the population will somehow have gotten into the habit of driving more alertly and as a result of what they have been doing for the last five months. And I hope that the number of deaths is even lower than the National Safety Council. They came out, I think,

450 to 550 total estimate, as they generally do before a holiday weekend. I think they might have made that 650 or so had it not been for what they have seen during the last five months.

Well, let's take a look at the long-range picture to see what is in store for the future. I got a sort of shopping list of things that I wish would happen. First, I think basically from a conservation point of view and I have talked with John Sawhill -- in fact, he and I had a joint press conference on this very subject about three weeks ago. There is little question that we have to remain conservation minded. So I think it's way too early to change that 55-mile-an-hour speed limit. I think that beyond conserving fuel, I think we have seen a very practical method of conserving life. I think that this has to be enforced as long as that's the law of the land and now, in all of our 50 states, I think enforcing it is a conservation measure not only of the energy but life as well. I think we have seen that. No question about it. We know that speed doesn't kill. But it certainly gives an opportunity for a little bit for making up for the mistakes that we, ourselves, cause and mistakes of others. Second, I think we ought to encourage states to enact the safety-belt-use law. I know it's a problem. This is a bottom line item, however, and regardless of your personal feelings, it's without question that if we could get everyone in the country to pay a lot of attention to using those safety belts - whatever safety belts he has in his car, whether he has a '65, '67 or '74 - we can save in a judgment the total of at least 10,000 people today. Its cost is negligent. That money has already been spent for their cars. I think the safety-belt-use law might give you some headaches but Americans, by and large, are law abiding people. They would probably get much higher rates of usage of those belts if such laws were enacted by all states.

I'm sure you know about the incentive program under the 1973 Highway Act which gives states grants equal to up to as much as 25 percent of their enforcement under federal highway safety funds -- that's the 402 Fund - and I'm sure most of you are familiar with it. Such grants will be given, as you know, for the fiscal year in which the law is passed and each subsequent year through 1976. Just last week, I think it was Thursday, I awarded a special grant on this basis for almost \$300,000 to Puerto Rico for having been the first to enact the safety-belt-use law which qualified it for the 25 percent specific grant. This was for 1974 and if they keep it enforced, it will get roughly, at least, the 25 percent for the succeeding two years. I fully recognize that and

I understand, by getting these laws passed at a state legislature and put on a governor's desk for approval is not too easy. We are an independent bunch and people hate like hell to spend money for something that makes it look less comfortable when they are driving. Just to keep them from experiencing something they haven't before, like death. So it's tough. But nonetheless we know from Australian success (I think you may be familiar with this) that they went about it in a very careful way - but nonetheless it is a success story. Because with very minimal enforcement (I have talked to the Australians myself, both the politicians as well as the enforcement people) with minimum enforcement, their laws increased from a 25 percent belt usage up to about 80 and it slipped off with a few tendencies to level off at some equilibrium, but it's still on the order of 70 percent or so. As a direct result, highway fatalities dropped approximately 20 percent almost immediately - serious injuries by almost 30 percent. Other countries are thinking about the same thing. We want to work with any state by invitation. We are not there to push it down anybody's throat. We will be happy to help anyone considering such legislation in any way we can.

I think another priority on the shopping list, if I might call it that, is the passenger restraints. On March 18th, NHTSA issued a notice of proposed rulemaking which called for passenger restraints such as air bags which you have heard about. We don't use air cushion restraints. These would go under front seats of all passenger cars on September 1, 1976. Based on what we proposed at this point, lap belts would be continued in the rear seats and the question is, I guess, that we favor safety-belt-use laws and why would we want to pass a restraint system. Well, I think you know the answer. But we find on the basis, from all the evidence that we have, that passive systems which don't depend on drivers and occupants of cars doing anything are practical and certainly would increase the use of such restraints should an accident occur, because you don't have to hook up anything. And actually our research shows that they will provide a significantly better level of injury-saving protection. We haven't required such things in rear seats because we don't think it's cost effective. Generally speaking, low occupancy of rear seats and the protection they already have as a result of having the front seat and so forth, putting in these passing restraints for rear passengers would not be cost effective in our judgment.

In the meantime we do have, and I hate to use the word, the interlock system because we know it's unpopular. But in the absence of safety belt-use laws and the absence of passive restraint systems, it's the best alternative that we have right now. To find out how successful the interlock is, we undertook a study in 20 cities and 73 cars which did not have the interlock - only six percent of the drivers were wearing the shoulder harness. We found that six percent of the drivers wore their shoulder harnesses; 24 percent wore their lap belts -- about the same as Australians when they started out -- and 70 percent were wearing nothing. O.K.

Now we have looked at the '74 cars and this is what we have found. 58 percent were wearing their lap belts and shoulder harnesses. Correct? That means that you have jumped from a nominal five or six percent wearing the shoulder belt which is vital as far as going forward and hitting your head on the windshield or even the padded dash. From a nominal five or six percent to 58 percent -- now that is a 1,000 percent improvement. Thirteen percent additional people were wearing their lap belts although they seemed to have their shoulder belt tucked behind them, and so forth.

The next item I think we all agree with is the Alcohol Countermeasures. I don't think any of us have any secrets about the effect of alcohol as highway safety. As a result of these demonstration projects which are totally federally funded, we can have states and communities pick up many of them and be convinced and use at least parts of them that would be effective in their areas, for funding at the state and community level. This actually happened. We are getting some good results. As we begin to get out of the demonstration projects, we are finding some of these being picked up and I'm sure all of you could cite some successes and some failures in your own states for doing that.

Now there is one other item I think this comes under the heading of communications -- I guess that is where I started this morning. That is that the safety effort -- yours and ours, needs a good dialogue and some new good ideas. I can remember trying out a new idea on an executive of a company with which I worked and he said well I guess you can't teach an old dog new tricks and my reply was how about trying some of the old ones we know that work already. I think we all know that apathy is a problem. I've said many times that traffic safety is as about as

exciting to the average citizen as a bad haircut. But I think in the states and communities down where things are going on, it is important that we keep the idea of traffic safety alive. That we talk about it. The energy crisis has done that. People are talking about traffic safety. At least we have something to say on a regular basis. I think it is helping. Last September, I guess it was one of the first speeches I gave after I came on board out at the annual conference of Governor's Highway Safety Representatives. I sort of coined a slogan that stuck at least it stuck to me -- I don't know how good it is. This is what I said: "There are three things we can do -- to keep drivers in seats, (safety belts), keep drunks off the streets, keep police on their beats. Actually I want to say cops on the beats but my public information people wouldn't let me say that. Actually, I did say it but when it's printed it comes out police. If we could do these three things, I think we could cure a lot of the driver problem. If we could have drivers do their real job out there, be trained, alert, having experienced emergencies and live through it so that they are smarter the next time. Our data say that something on the order of 80 to 85 percent of all accidents are caused by either carelessness or a lack of judgment or a lack of training or a lack of something. I don't know how you take care of these. You fellows are the experts in that.

Beyond those three things we have to keep our eye pretty carefully, too, I think on what is happening in the cyclists world and pedestrian world because this is where we are getting our big increases right now. I would welcome all the good ideas and new ideas you'd run across. If we don't keep this dialogue going, we don't let you know what we think is helpful and you don't tell us what you found effective. That's about all that I have to say this morning. I'm delighted to meet with you. You are a vital part of what I call the national bottom line. There are things in each community and each state that are the specific problem. We want to work with you. As we go down the road, I hope that we will be stimulating you to talk to us. Certainly I'll be stimulating our fellows to be working very closely with you to work out the best impacts we can on this bottom line. Our national bottom line is not going to be effective if each of the results are not effective out in your particular local area, community, states, regions and so forth. This is the message today. I am glad to get together with you and hope we will be seeing each other more in the future.

Following is a summary of statements made by each state representative concerning the impact of the energy crises on police operations.

### Connecticut

In Connecticut, the State Police Department has its own contract for gasoline. Gulf is the only one that wanted to bid, and last June we were paying 14 cents a gallon for hi-test. Until about three weeks ago, we were paying 28 cents - it has increased approximately three cents. We anticipated several weeks ago that we would pay 40 cents; we have no idea what we are going to be paying from now on in. One of the things that has happened to us, however, is up until last year the Gulf Oil Company paid for the cost and the tax in our installations. We have eleven across the state. They told us that we were now going to have to take over buying that equipment from the company. Also, they told us that they will not deliver unless we have a 10,000 gallon storage capacity and in most of our installations we do not; so we are going to have to put in bigger tanks. This is what has happened to us. It cost us so far in our present budget about \$116,000 - about what we anticipated. We have not had any difficulty in getting the gas we have. Where we go from here on in, we have no idea in the world.

### Delaware

The Delaware State Police has not experienced any large difficulty in the fuel shortage. We maintain our own contracts with the gasoline companies -- ARCO this year. We are having problems with bids as well as other agencies. Our storage facilities were such that prior to the shortage, we were receiving deliveries sometimes two or three times a week. With the slowness of deliveries and day-by-day shortages, on occasion our deliveries were delayed. Therefore, we had slight inconvenience where we had to transport our cars to another troop to gas up or something of this nature. Our troops are not too far apart; we had no big problem. We have instituted several gas and fuel saving orders through headquarters. For instance, our helicopter is not flying patrol type duties -- we put it in a problem area and sit it on the ground. This type thing is stationary patrol - car pools for the officers who ride to headquarters, and so forth. I'm included in that. We are not operating air conditioners in the police cars under 80 degrees - that's another seat belt law. I don't know how we are enforcing that. At any rate, we have put that out. The largest difficulty we have experienced is that in our state, many, many of the emergency organizations - ambulance

service, fire department, and so forth - do not have a gasoline supply. A lot of them want to deal with John Smith down on the corner and want to buy the gasoline from him because he happens to be in the American Legion or this or that. Consequently, when John ran out of gas, he closed down on Sunday and the ambulances didn't have gasoline. We received numerous requests from these type organizations, even fire departments, requesting that they gas at our troops. Our storage capacity did not enable us to supply these people. We assume now that they have made other arrangements, but our capacities have been increased. We have put in new tanks and we have not had any problem.

### Maryland

I'm sure most of our problems are quite similar. 1973 had a severe fiscal and operational effect on the Maryland State Police. I would like to examine the fiscal impact briefly. In July 1973, a gallon of gas was costing the State of Maryland 22.81 cents—that was delivery. In May 1974, it was 40.7 cents. In July 1973, the average cost of gas to the MSP units in the service station was 37.5, and now it is upwards of 60 cents in Maryland. We had problems contracting for gas for fiscal year 1975. We wanted 3 million 400 thousand. The only company that bid was willing to give us 3 million 100 thousand gallons, and as if to rub it in, the oil company required us to buy the pumps at 21 field installations at a cost of \$22,000. For the amount of gallons called for in the contract, no firm place was established; and there was a proviso that when the gas shortage became acute again, the contract was null and void and gas has to be paid for upon delivery. In fiscal year 1976 we will request a million dollars extra in our budget or put in additional storage tanks at the field installation. Directives began to flow from the superintendent's office and among some of them are reduced speeds for patrol cars, and patrol cars only patrolling 40 minutes out of every hour. Some cars ran out of gas. There was no more than a one-to-two day delay, and they could either borrow from another barracks or try to get gas from the local pumps. Car pooling is in order throughout the state. Typically, at headquarters, civilians who have been tied up in long lines would be picked up at central locations and carried in the state cars. In recent years, uniformed men have been permitted to

commute long distances in Maryland, including yours truly here. This sent a lot of us scrambling to look up people and at least get three or four in a car coming into headquarters. Local commanders were ordered to conserve gasoline in every way possible, and there were some compensating factors during the crisis.

The volume of traffic decreased notably, particularly on the beltways and freeways. The accident picture declined appreciably. By April 1974 we had 105 less deaths in Maryland than equally 1973. State police were assigned the responsibility to issue exemption certificates, and the thing really wasn't administered properly because they simply signed a certificate which was not an affidavit. There was supposed to be some spot investigation to check their validity of their claim. We were, of course, belabored by stranded people throughout the state who were out of gas. The long lines at the service stations mounted, violence increased. Just to prove this story, we had a guy park his car at the head of one of these lines and get out. He goes back to relieve about 30 motorists of three dollars apiece, telling them that when they get up to the pump it will hasten their getting gasoline—so he left a little richer. The future appears to be bleak, however. I think they are trying to give the state police in Maryland a message that people in high places might be relieved of their commuting transportation. The legislature has moved in on the state fleet already, not including state police, and the cars with over 40,000 miles are not being traded in. This has sent agency heads and a lot of people scrambling to try to justify their automobiles, or if their auto is not being traded in to try to wait around and take someone else's. The state is going backward by paying ten cents or twelve cents a mile for the private use of cars, and this certainly is a step backward. There was one emergency in Maryland in Garrett County during the truck strike. The county was without fuel, gasoline. Some national truckers were gotten together in Baltimore and made their way to Garrett County which is in the extreme western portion of the state, and truckers were escorted into Garrett County to bring food into the supermarkets and grocery stores. Thank you.

## Massachusetts

We basically have the same problems that were mentioned by previous representatives of the States. Our biggest problem was I thought on a few occasions we had a couple of ambulances come in from another state. They were taking patients from a couple of Washington hospitals back to their respective states and they were out of gas. The patients had to leave the hospital and we furnished them gas. On the basis of that, I went to the government and the governor approved, made an agreement where physicians' emergency vehicles or any kind, ambulance and so forth, could come to our barracks and fill up their gas tanks. Now this was about four weeks prior to the problem of the energy crisis being resolved and I thought that we would get hammered. I think that we delivered less than one thousand gallons of gas to 26 cars; so the problem wasn't as great as I expected, but it had to be done. There were a couple of other instances where emergency vehicles were stranded on the turnpike or on state highways. Now we just had to give them gas. Fortunately, a couple of troopers used their good judgment and did give gas on a couple of occasions while this agreement was negotiable with mental health. That was our biggest problem; and as far as storage, we were O.K.

## New Jersey

I would be repeating. We have the same problems as Connecticut. We have a Gulf contract for 27 cents a gallon, and within the confines of the state's operational problems encountered all of the problems. We had to go to car-pooling and so forth. One of the things that we found out was that our theft of gasoline from stations and individual people decreased and our mileage came up from seven miles per gallon to ten miles per gallon. It made us realize that our accountability was not that functional. We had the usual problems with regard to - and ours started last September prior to the crisis. We increased our fleet to 200 cars. That's about 1,300 vehicles and, of course, our 1972 allocation would not account for our increase in fleet. Gulf would not give us the gasoline, so we had to scrimp to get gasoline any place that we could. From there on, we made a local contact and we hauled gas in national guard tankers every weekend. We hauled about 180,000 gallons of gas in about two months to our stations. We found that we had a lot of problems with our undercover people in getting gas. They used the credit cards. We couldn't do much without them. We had odd and even days. We found that we had to help out the federal agencies, not so much the FBI, but the EEA and the other people that

had no access to gas. We had the odd/even situation. We did have to help them out.

#### Ottawa

I came unprepared with the mail strike that we are having with our correspondence. But I would say that we didn't suffer from an energy crisis in Canada. There was no shortage of gasoline. The only impact that it had on us was that we did pay more money for it, but there was no shortage and no crisis measured as far as the Royal Canadian Mounted Police are concerned.

#### Pennsylvania

Pennsylvania State Police have their fuel in three locations -- the Department of Transportation, a few of our own facilities, and commercial. Out of about 108 stations, we serviced over 1,400 autos and five helicopters with 100% of our needs. We did not experience any type of problem at all.

#### Quebec

We have no problem in Quebec.

#### Virginia

We really have had a great deal of a problem with this. We have more than 60 tanks throughout the state to service our cars and, of course, we get business to supply us with gasoline. We made our budget out for the next two years last August. We were the only agency in the state that anticipated an increase in the price of gasoline and, as a result, put 1.2 million dollars more in our budget than we had the previous period. I had to appear before the appropriations committee and as a result of my appearance there, they did not allocate the 1.2 million dollars to us but did allocate 8 million dollars to the state government for increase in price to all agencies in the state.

#### Indiana

Our primary experience relates to the great increase in cost. But I don't think we had any shortage that affected our operation. Our

budget is still suffering and we may yet have to restrict our patrol because of budget problems! We will elaborate a little bit more, and talk about operation of aircraft and that is part of my division, and I am familiar with that. We did experience rationing of sorts. We could only go into some airports and only buy an hour of fuel. On a few trips into Washington, D.C., they would only sell us an hour of fuel and we would be coming back at night and, of course, we have enough reserve so that we could make it. But by the time we got back to the Indiana line, we have red lights flashing a warning. All in all, it was more of an inconvenience. A lot of our cars that depend on service stations on Sunday had to go back to the post to fuel up there, rather than fuel up at the service stations. That's about all I can tell you about it. I'm sure we didn't get as hard as the states east.

### West Virginia

We experienced many of the problems that you fellows have already expressed here, but we had some additional problems. We had a five-county area in the northern part of our state which was completely cut off from all food supply and gasoline due to a truckers' strike.

In the latter part of February, our mining industry in the south went into a strike situation due to the shortage of gas. As a result, we were involved in issuing permits to those people who must operate more than 50 miles to and from work on a daily basis. Of course, this had its usual problems but all in all, it worked out very well. We have had to enlarge our facilities and install larger tanks because of the delivery situation. At the moment, we don't have a contract for gasoline purchase. We haven't had one in over 18 months, although our previous contractor is still honoring the provisions of our old contract, but, of course, with the necessary price increases.

We have implemented a program which requires our patrol cars to spend 15 minutes of every patrol hour at a fixed post position to conserve fuel.

## LABOR RELATIONS PANEL

Major Eugene Olaff - New Jersey State Police - Panel Moderator:

In New Jersey, I guess we go back to the early 60's when we had an employee organization that was formed without benefit of legislation. Of course, now we do have a labor law and I understand that approximately 30 states have it throughout the country. So the movement is growing. If you don't have it, you will have it in a very short period of time. To start the program off (I'll save my remarks for later) if we have any questions directed to the panel members, it's suggested that we save them until the end. I would like to call on John Burpo who is the Supervising Attorney for the IACP Public Safety Labor Relations Center. I might say that through LEAA funding the past two years, we have had John Burpo and his staff into our state and presented several courses on labor relations and legal discipline for the Chiefs of Police and County and State law enforcement officers and he did a commendable job. In fact, the comments that we are receiving from our chiefs of police stated that it was one of the finest courses that they had ever attended. John is formerly legal advisor of Tucson, Arizona, Police Department. He is author of the book, The Police Labor Movement, and a graduate of the Northwestern Law School Police Legal Advisor Program and also the University of Tennessee Law School.

John Burpo:

This morning we are going to be talking about collective bargaining, and first off, let us define what we are talking about. For our purposes this morning, we will call collective bargaining the process by which the employer and the employees through their union negotiate a formal written agreement over wages, hours, terms and conditions of employment. How many people here are using that definition of collective bargaining in your state or jurisdiction. Three or four. Well, I would certainly have to agree with Major Olaff that the trend is definitely toward collective bargaining in public sector in law enforcement. I think it is an area where law enforcement in general has been unprepared simply because you haven't had to deal with it. But it is here. There are about 30 or 32 states that permit public employees to negotiate a contract with their employer. There are two bills pending in Congress at the present time which would extend collective bargaining rights to all public employees in the United States; so I think it is extremely important that we become informed in this area to determine what some of the problems are that are going to be posed to law enforcement administrators in collective bargaining.

My particular topic this morning is going to be contract drafting, and I think what we should be looking for here is some problems of contract form, how should you structure a collective bargaining contract, what some of the substitute provisions are that should be placed into collective bargaining that will protect management, that will protect you people as administrators so that you can efficiently run your agencies, and I finally think in talking about some of these contracting draft issues we will get somewhat of an idea of what the unions are trying to bargain for -- the types of issues the unions are raising in the collective bargaining process. Just first let me say what I think is the most important thing I'm going to say this morning. That is if you have a collective bargaining contract in your agencies or when you have a collective bargaining contract in your agencies, you have got to understand the importance of that contract, the significance the contract will control the relationship that you have with your men for the duration of the contract. If you have a contract over wages, hours, terms and conditions of employment, that contract will control, combine, or submit the relationship you have with your employees for the life of the contract. For example, if you have a clause in your contract that requires you to make job assignments on the basis of pure seniority which in a number of collective bargaining contracts that the law enforcement have, you are bound to adhere to that requirement, you must assign on the basis of pure seniority. If you have a provision in your contract that during an internal investigation you cannot compel a man to take polygraph, you are bound to follow that contract provision, which in some cases will hamper an effective investigation.

What happens when you have a restricted clause such as the one I just cited? It hampers your ability to manage your agencies to effectively manage your state agency. I have found in my experience that there are two reasons why we get these kind of clauses in police collective bargaining contracts that hamper management ability. The first one is that we get negotiators at the bargaining table for management who are not skilled in law enforcement negotiations. For example I worked in a town a while back where they had gotten an outside negotiator from a private industry, and this gentleman was probably very qualified as a negotiator for management in private industry. But as a result of his being at the bargaining table representing the police department, management wound up with a pure seniority clause for promotion, pure seniority for certain types of job assignment, a terrible grievance procedure, there was a whole list of errors that occurred in this contract. I am presently working in a town in the mid-west where they have a negotiator who is formerly from the Army.

Once again he was skilled at his job at labor relations in the army, but this type of skill is not transferred over very easy to law enforcement. This is a problem common to most agencies which just isn't the expertise of this kind available for collective bargaining representation for management at the bargaining table. Then there is a second problem which I have also observed the last two or three years. That is that the law enforcement administrator, chief, director of public safety, has not perceived the importance of the collective bargaining agreement and he has not insured that his interest is represented at the bargaining table. The chief has not been there at the bargaining table to make sure that management rights are not bargained away or he has not had a representative at the bargaining table who would say when the management negotiator was unskilled in law enforcement negotiation begins to say well OK if the union will come down from 10% to 7% on their wage increases, we will give you the pure seniority clause for jobs. At that point somebody who is there to represent the chief's interest should say, Well, wait a minute - let's call a caucus negotiator and go out in the hall and discuss this a little bit because you are going to hamper our operations by negotiating a clause such as that.

All right, just very briefly let us talk a little about contract form -- what you might call an ideal form for a collective bargaining contract. And let me say that the format that will define a collective bargaining contract will be very similar to what you would find in a contract of private industry. You would start out with a preamble clause with all these legal statements concerning the improvement of labor-management relationships in the agency. Then you would have to have some provisions in your contract regarding definitions, who is an employee, who is the employer, who is the supervisor, what is a grievance if you have a no-strike clause in your contract you will have a definition of a strike, and there will be a whole set of clauses in your contract having to do with recognition, that is that the employer recognizes the union and that the union is the bargaining agency for a specific group of employees who might be patrolmen, sergeants and then there will be what we call incidental recognition clauses, such as a dues deduction so that the union has financial security the employer will deduct so much from the pay check of the employees which will then be transmitted to the union. You will have quite often provisions having to do with the union access to bulletin boards.

In some of the contract negotiations, people argue over where should the bulletin board be and what should go on the board and get carried away. Then you will find a whole series of clauses in your contract having to do with management practices, management rights, management obligations and I'm going to hold off talking about specifics here because this is the area that I really want to concentrate on this morning. I think this is where you people will have the most interest in the impact of collective bargaining will fall most heavily. Then there will be provisions having to do with economics, salary structure, overtime, longevity, these types of clauses. Quite often in the economy clauses you will find provisions having to do with hours and the number of hours an employee works because there is an impact on hours as far as overtime is concerned. Then you will have a budget clause having to do with fringe benefits, insurance, pensions, leave time clauses will then follow after that, vacation, holidays, sick time, days off. Finally you will have in your contract what we call closing clauses which have to do with how long the contract lasts - is it one-year contract, two years, etc., and you will have a severability clause which means that if you have a provision in the contract that is illegal, unconstitutional, that clause would come out, if it is deemed as such by a court, and the rest of the contract is still maintained.

Now for the rest of my talk I would like to concentrate on clauses in the contract having to do with management practices and this is an area that the unions are becoming more interested in trying to tell you what type of discipline procedures you should have, what type of promotional policies, and assignment policies, we could go on and on, we could think of all kinds. And I would say that as a general principle that you should encourage your negotiator at the bargaining table to keep management practices out of the contract, try not to get these types of provisions into a collective bargaining contract. The most ingenious type of management practice clause can come back to haunt you. For example, I worked in a town where there was a very seemingly harmless clause that said shift hours are as follows: listing three standard shift hours, and then there was a fourth shift hours that was from 6 pm to 2 am. Well, the Chief in this town felt that these shift hours were inappropriate and did not conform to the crime pattern that he wanted to use for the fourth shift, nor calls for service. So he put out an order saying that the fourth shift shall be changed to seven to three. The union president walked into his office and said "Chief, the contract said that the fourth shift will be from 6 p. m. to 2 p. m. and that

is what I feel that it should be for the duration of the contract. If you want to change it, you talk to me during the next contract negotiations." So this seemed like a very small thing to put into a contract, but it can be harmful. Once again we come back to the principle that the contract controls the relationship you have with your men. One type of management practice clause I would definitely try to get into the contract is what we call a management rights clause. I'm sure most of you have heard about this. This is a provision that will tell you and the employees that management retains certain types of rights in spite of the contract. I've seen several types of management rights clauses. Here is a limited type of clause that says that the Commissioner of Public Safety shall retain the right to issue rules and regulations. That would be very limited type of management rights clause. If I were negotiating a contract for management, I would try to get a little more expansive type of management rights clause. For example, here is one from the State of Wisconsin where management obtains the rights to set rules and regulations, schedule overtime, set job descriptions, discipline employees, establish work schedules, establish methods by which work would be performed, transfer employees, transfer governmental operations, consolidate and reorganize, and contract with other agencies or corporations. Sometimes a management rights clause, this all sounds great, and you say now I've got this management rights clause and I can do anything I want, I'm the management. But in labor relations you have to understand that we are not dealing in a vacuum and sometimes you will have this beautiful clause in a collective bargaining contract that tells you you can do all these wonderful things, and then you find out you really can't do some of these things that it says in the contract.

Now there is one type of clause that the unions will seek in collective bargaining and it is called a past practices clause. A past practices clause is very common in private industry. What a past practices clause says is that there can be no changes in wages, hours, terms and conditions of employment during the life of the agreement that are not specified in the contract. What this does is that it makes the contract applicable to everything having to do with terms and conditions of employment not covered in the contract. Now this is quite common in private industry, but let me show you how it works.

A gentleman over here, I believe he was from Delaware, was talking about the air conditioning in a car that he put out an order on air conditioning if it's under 80 degrees. Now if you had a past practices clause in your

contract, I believe the union president could walk into your office after you had put out an order such as that and say that during the past five or six years, we have had air conditioning in the cars we have been able to run air conditioning during all types of temperature, and therefore you cannot put out an order such as that and I believe he would be correct. So we have to be careful. I would not want a past practices clause in my contract as a management negotiator. If the union tries to press you hard on an issue like that, you might come up with a compromise such as that management retains the right to change practices outside of the contract, but must first consult with the union. And that would be called something like a meet to confer clause -- you would have to meet and confer with the union and discuss any changes in policies and procedures to get the union's opinion. If you do that, you are not going to lose anything and you still retain the final say.

Let's talk about discipline for a little while. This has become a very big concern of police employees and therefore of the unions. One of the important issues of law enforcement during last year and this year is a concept that we call the police officers' bill of rights. I'm sure a number of you have heard this. What the bill of rights is is a document ordinarily promulgated by the union which says that when a police officer is under internal investigation, certain types of rights will accrue to him, such as the right to be told why he is being investigated, being investigated at a reasonable hour, who is investigating him or who is interrogating him, if it is a citizen's complaint the name of the citizen, the right to have the investigation or interrogation recorded, the right to council, and I don't have too much objection with these types of rights. However, there are other kinds of rights that I do question. Let me read you one from one collective bargaining contract. It says that an officer shall not be subjected or threatened with transfer or dismissal or any other disciplinary action. All right, an officer shall not be subjected or threatened with transfer, dismissal or other disciplinary action. Now let's say you have an investigation underway of an employee who is possibly engaged in some type of criminal activity, burglary, extortions, shakedowns, whatever, and you call the man in and say we would like to know a little bit about this situation. We have certain information that you are involved in this activity and we want you to answer these questions. He says I'm not going to talk to you. This is a criminal matter and I have the rights under the constitution to not discuss this matter with you. In the absence of the policemen's bill of rights in your contract, you would then say, all right, I order you to talk to tell us what you know about the situation, and the

employee would then say I'm going to talk or he would say he refused. If he refuses to talk, you would then fire him for insubordination which is your right under several leading court decisions. If you have got a police officer's bill of rights in your contract, it is my opinion you cannot order a man talk in this type situation. Your hands are tied, which causes you problems in effectively conducting an internal investigation. There is also -- some of the police officers bill of rights will have a provision saying that you cannot order him in for a polygraph, and you cannot fire him for insubordination for refusing the polygraph. Once again, I'm not up here advocating the use of a polygraph. I think sometimes the polygraph is like reading tea leaves, but I think it is a tool that you should have in your arsenal of investigative weapons when you are conducting an internal investigation. If you have a provision in your contract that says no polygraphs, you can't give a polygraph.

The use of seniority is found, quite often you get a union where you have older members who are in the power structure of the union, 45 or 50 years old, and the emphasis in these types of unions will be on seniority -- seniority for vacations, layoffs, shift assignments, beat assignments, job assignments, promotions. I would have no objections as a management negotiator putting a pure seniority in a contract where vacation times and layoffs are concerned. That's standard for law enforcement and private industry, I have no objections. However, when you get into seniority for shift assignments, job assignments, beat assignments, and promotions, I would be awfully careful. I would definitely not want pure seniority.

For example, there is a town in Rhode Island where they have got pure seniority for shift assignments. I would suspect that what has happened is that all the older officers have gone to the day shift and you have many of the younger officers on the midnight shift. What is occurring here is that you don't have a good blend of experience and youth which is hampering your ability to allocate manpower. What some employers have done on this issue of seniority is that when the union comes up and says we want pure seniority, the employer will counter with a clause such as this: Seniority shall be a factor in the selection of job assignments, promotions, shift assignments, beat assignments, etc. That sounds great. Now we will just take seniority into consideration. However, several arbitrators have ruled that if you have a clause such as this where seniority shall be a factor, and you select the last senior man that you have got to show, if, like it's a grievance arbitration case, if the man that was passed over, the

more senior man, files a grievance against you and it goes to the arbitrator, you have got to show that this last senior man is head and shoulders above the more senior man and that is why he was selected. That's called the head and shoulders group. I can cause you problems once again, and I would caution you in putting a clause like that in your contract. If I were a management negotiator I would try to get the broadest discretion possible in selecting assignments, promotions, shift assignments, etc.

Let me just finish off by just talking about one contract in a town where I have worked and show you types of problems you can run into in management if you don't have good contract clauses. In this particular town, they have a beautiful managements rights clause. It covers all types of powers that an administrator should have. But then the contract goes on and it contains all of these other clauses that restrict management's ability to run the agency. The first situation is one I've already cited to you where we had a change in shift hours, the fourth shift, the union president walked into the chief's office and said - Chief, the contract said that the fourth shift shall be six to two and that's what it's going to say for the rest of the contract. There is a clause in this contract that says, "The policewoman shall work a 40 hour work week, Monday through Friday, 8 a.m. to 4:30 . " There were two problems that occurred in this town in this situation. One, the chief wanted to assign this girl to do some undercover work. They had one policewoman during the evening hours, and she says the contract says I work 8 to 4:30 and I'm not going to work in the evening. Also, the chief put out a request to hire another female and the union president, well, as a matter of fact, she had been hired - and the union president said the contract says, "The policewoman . . . " If you want to hire another policewoman, you come back and talk to us during the next contract negotiations.

There is another clause in this contract that says any changes in uniform and equipment shall be agreed to by the union as well as by management. In this particular town, the chief wanted to change from blue hats to white hats, and he went out and bought all these white hats and the union president walked in and said we don't like white hats - we like blue hats - and they are still wearing blue hats in this jurisdiction. And then there is one other clause in this contract -- let me get this one for you - it has to do with promotions - it says that any promotional vacancy occurring within the bargaining unit shall be filled on a seniority basis, provided that the senior employee is qualified. All right, now you say that doesn't sound too bad. The guy is qualified so he gets the promotional vacancy.

Let's say you have a promotional exam for sergeant. You get ten people on the list and there is a list from one to ten, where the number one man is supposedly the best man and you say I'm going to promote officer number one to sergeant and officer number ten walks into your office and says I'm qualified - I've passed the exam although I'm tenth on the list. I'm also the senior man and I want to become sergeant and you will have to promote us.

So, what I'm trying to tell you here, especially on your first time in selective bargaining, make sure you are prepared for issues like this -- the demands from the union which will hamper your ability to run your agency. Make sure clauses such as this do not get into your contract, because if they do, you are going to be very sorry.

Major Olaff:

Thank you, John. I've made a few notes here on some of the comments you made here that certainly apply to our organization. At this time, I would like to call on Major Quinn, New Jersey State Police, who is our Administrative Officer and who is, incidently, sitting at the negotiating table with what we call the STFA - The State Troopers Fraternal Association of New Jersey. We have been associating for two years with this association. In fact, last June, right after the primary election for the gubernoral election, they walked out on the meeting and said that they would deal with the next administration. Anyway, George, I would like you to talk about some of our problems.

Major G. A. Quinn:

Thank you, Major. Gentlemen, I took the liberty of putting copies of the old agreement, and it was the first agreement that the State Troopers Fraternal Association entered into with the State of New Jersey, also a copy of our public relations commission rules. I will give you just a brief background, as I understand and know it, of contract negotiations in the State of New Jersey. It was in 1968 that the Kirk bill was passed and became law. It is referred to as Chapter 303 in our law books. This authorized the public employees in the State of New Jersey to engage in collective bargaining with their employers and this spills over into the counties and municipal governments as well as state governments. There is an office established in the State of New Jersey from the governor's office and it is referred to as the Office of Employee Relations. There is

a fulltime director of this office who deals with all of the various units in state government. The Kirk law, as it is established, allows 12 bargaining units in the state government and we learned by some errors made in other jurisdictions, that when they were drafting this law, not to have very many fragmented, collective bargaining units. New York City was an example, I think, as well as New York State and the Federal government. The federal government, I understand, has an excess of 2,300 separate bargaining units that they have to deal with on an unyielding basis. It has become so cumbersome that it is difficult to address yourself to them - the multitude of problems that are going to be presented.

In New Jersey, the twelve bargaining units have been defined and they are categorized according to their job function. In other words, the clerk-typist title may encompass 16,000 of the 56,000 state employees in the state of New Jersey. They can only belong to the collective bargaining unit that they elect to represent them. The same with the professional people. . . the state law enforcement agencies, and it is broken down, as I say, into 12 separate units. The division of state police has two bargaining units, one that represents troopers and, as indicated, it is referred to as the State Troopers Fraternal Association. It is a pure state police bargaining unit and not affiliated with any other state or national union movement. The second unit, which was just recognized and formed the later part of 1973, is the non-commissioned officers association of New Jersey. This represents the 400 sergeants of the various sergeant ranks in our organization. I might add that the STFA represents 1,100 troopers. There is no agent in the shop. It is strictly voluntary on the part of the individual. If he wishes to belong to the association, if he does there is a provision, as John indicated, for dues checkoff. Of utmost importance is a thorough in-service training for all supervisors so that they understand the intent and meaning of the contract language. All supervisors should have a copy of this contract. The purpose behind this is two-fold, one to minimize grievances because every contract will have a grievance procedure in it. Second, would be the uniform application of the terms and conditions of the contract throughout the organization that all supervisors are uniformly applying what the contract rights means. We in New Jersey have gone a little further than just in-service training. We have sent some of our top supervisors, troop commanders and their staff people to labor relations courses at the State University of Rutgers. Rutgers does have quite an extensive labor relations course, not only for the private sector but also the public sector. We have established with our, and we are going to establish with the NCO, but we have had a past practice

of meeting on a quarterly basis informally with the officers of the STFA and we will meet with the NCO association on a quarterly basis just to sit down and discuss any problem areas that may have arisen in the past. A thrust to keep the lines of communication between the association and the division as open as possible. If there are problems that can be corrected in that informal atmosphere that is one of our main thrusts to satisfy any problems that they be present. We may not realize that this is a problem, that is what I'm trying to get at. We in management may not realize that there is a problem, and to sit down with these people and discuss from their viewpoint as to what they think is wrong is a good way of opening up the lines of communication. It also grants, and I think that this is important, recognition to the association and their representatives they are there and they are not going to go away. They belong to you - they are part of the organization. And you must at some point in time give them the recognition that is deserved from management. The grievance procedure that I alluded to before at the break, if you will take a copy and just look at it at your leisure, you will see that it was a loosely knit grievance procedure. In fact, the first contract or agreement that we had with this state troopers association was not that all-inclusive. They were able to realize a real good monetary package on their first go-around for contract negotiations. A real husky monetary package. So they didn't get too deep into management prerogatives and management rights.

Unfortunately, I can't say the same for this last round. We have been sitting in a debate for two years, better than two years, and we still have not executed a second contract with them. The grievance procedure, as I say, you will see is rather loosely pulled together. They are getting more sophisticated and more expertise from the attorney that represents them, and the state has given to all bargaining units, binding arbitration in the grievance procedure and that pertains to the contract line groups. And as John pointed out, when you are drawing the contract, the language that is put in there, can come back to haunt you at some point of time because when we talk about binding arbitration, this means now that the grievance ultimately can get to an arbitrator who is outside state government and he will make a ruling as to whether there was a misinterpretation or mis-application of the contract language by management. And whichever way he resolves it, you must abide by it. Both parties must abide by the arbitrator in a binding arbitration situation. As I say, that part of the binding arbitration only pertains to the contract language. You can have grievances in other areas that are not part of the contract. A man may

grieve that he has pulled more late patrols than another trooper at the station and that could be a grievance. But there is nothing in the contract that says how many late patrols a man is required to perform. So he may grieve that it would only go as high as what we refer to as the policy council level. Now if I may for just a moment, we are talking about two different systems in our agreements in New Jersey - we are talking about binding arbitration where it goes outside the state government in contract language and we are talking at another level of policy council level in all other type grievances.

The policy council consists of the state treasurer, the secretary of state, the president of civil service, the director of the budget, the council to the governor, and the director of employee relations. These people make up the policy council and any grievance that is generated anywhere through state government. Ultimately, if the person pursues it through the entire procedure would get to these people if it has nothing to do with contract language and they would then make their decision as to how it would be handled. How there is a little difference again in the grievance procedure in the two contracts we are presently trying to execute. The STFA grievance procedure starts at the first level. In other words, a trooper will grieve to his immediate supervisor. Verbally or orally he will grieve to him about a certain condition if the sergeant feels that it is a legitimate grievance and he can correct it to the satisfaction of the man, fine; if he doesn't and he denies it, the trooper must then submit within X number of days now in writing to that same supervisor his grievance and within X number of days that supervisor must give a written determination, even if it is to the extent that the grievance is denied. It then moves up to the troop commander level, and here the trooper can, if he wishes, have an officer of the association represent him before the troop commander or he can go it alone. The troop commander would then review with the trooper or if he elected to have his representative there, in an informal setting the grievance; if he felt that the grievance was justified, he could adjust it and see that the relief that is being sought by the grievance is granted. If he, in his estimation, feels that it was not a proper grievance, he will deny it. Once we get by this first level, and it is now in writing, each phase must be reduced in writing and there are time frames put on the response and movement of a grievance.

So the troop commander would give his determination and to give this as a hypothetical situation, he is going to deny the grievance that it is not justified.

The trooper now can move to the superintendent's office or his designee. The superintendent can designate somebody in division headquarters to hear the grievance at the third step. If he again says that the grievance (again this is information) - it should be an informal type of situation with the thrust of trying to resolve the grievance but if it is denied at that third level, now to go beyond that he must have the association move it outside the organization. The trooper himself cannot go higher than the superintendent.

The association must say, yes, this is a grievance that has merit and we want to resolve it. We will take it to the policy council. Now with the NCO association grievance procedure, we have all of our NCOs now in the same bargaining unit. If there was a grievance by a buck sergeant at a station level and a staff sergeant as the station commander, he would not grieve to someone in his own bargaining unit. So all of our non-coms, the first stage of their grievance procedure and again it can be oral, would be to the troop commander. So there is one step missing from the NCOs that the troopers did have. But ultimately beyond the troop commander, now the NCOs must have the association go with them - they are going to screen - in other words, the association has the right or has the duty, I should say, after a certain period of time to screen grievances to see if they are in fact a justifiable grievance to eliminate the frivolous type grievances just to tie up management. And they have that as one of their duties to screen the grievances and to eliminate those that are frivolous and have no merit. The big thrust with the grievance machinery is an attempt to resolve at the lowest level, that first oral grievance (if there is in fact a grievance). Somebody will say - well, what do we mean by a grievance? Does a guy have to say I'm coming up to you and I'm going to grieve this, or whatever terminology he puts on it, but if he is voicing some concern about a condition of employment. The immediate supervisor should address himself to it, and dig a little further if digging is needed in an attempt to resolve the thing if it is legitimate. If it is not, he denies it. The associations are going to screen their grievances quite thoroughly because when we go to binding arbitration, the cost factor now enters into this. Both sides, the state and the association, must share the cost of binding arbitration. Arbitrators don't come cheap - they get a good salary for their day's work.

As I say, it would be to the benefit of the association to go through screening and not let too many go to arbitration. There is a movement on now to amend the entire procedure now being programmed through the legislature, what it is, is a liberalization of the entire Kirk Law to allow agency shops. Even though a man doesn't want to become a member, he would be charged the fee because the association does in fact have to represent all people in the bargaining unit whether they are dues-payers or not. So they are pushing for an agency shop.

A court decision finally decided that the governor of the State of New Jersey is the employer of all state employees and has the final word as to conditions of employment. In other words, you sit down across the table and you negotiate.

NOTE: At this point the tape recorder malfunctioned. (Taping was resumed during the Question and Answer period.)

John Burpo:

This is a problem not only in the state legislature but in local cities also. What will happen quite often is the management people who are represented by a city manager or negotiator of some type will sit down for two or three months, six months with the union, and they will hammer out an agreement that makes everybody happy. Then the economic items that have got to go to the legislative body whether it is the state legislative body or the city council for ratification and what will quite often happen which could happen in your state, the council or legislative body will undermine the whole bargaining process and say that we are not going to approve of the economic items in the contract, which means that the contract as far as those economic items, is not binding on anybody. I strongly disapprove of that type of bargaining and what our office recommends and I'm not so sure that what we recommend is the same as state agencies but prior to bargaining, the negotiator for management goes to the legislative body and you say give me a dollar amount to work with and then the negotiator will have this coordination with the legislative body and he can sit down at the bargaining table and know the limits to which he can go, he negotiates his contract with the assurance that when he presents it to the legislative body it will be approved. Now I'm not aware of how you state functions or how some of the other states function, but probably you would want to work that out with the appropriations committee, you have one in your state legislature if that is the committee that has power over this item.

Question from Floor:

Under our structure, sir, would you suggest this is possible? For instance, they can't give you a figure until they get a budget approved, the budget is approved on the 29th hour of the last day of June, it is quite an involved thing. My question is what is the recourse, where does it go?

John Burpo:

Now you go back to the bargaining table and the problem is once that happens the Union is not going to believe the management negotiator. What you will have done is undercut the management negotiator's credibility. The union will say why should we talk to you because, obviously, you don't have the influence to go to the legislative body and get what we have agreed to get. And that just messes up the whole bargaining process.

Floor:

They have no recourse?

John Burpo:

No, you don't have a contract as to the economic items; unless the legislative body ratifies the contract, you don't have one.

Your problem is universal and really what they do every time a contract is agreed upon one of the last clauses in the contract, for our state it is a law - it must be in larger print than any other part of the contract and it really says that it is agreed by and between the parties that any provision of this agreement requiring legislative action permits its implementation by a member of the law or by providing the additional funds therefor shall not become effective until the appropriate legislature has given approval. All parties agree, they know that this could happen, but what they do is agree that if the funds are not forthcoming the rest of the contract is invalid.

Question:

I wanted to ask John Burpo - he came from a right-to-work state. What are the experiences of a right-to-work state where they are trying to organize?

Answer - John Burpo:

Ordinarily in a right-to-work state there is a general anti-labor sentiment in the state. And I would say, as a general principle, you are less likely to find a police-employee organization, or if you have one, it is not a very strong employee organization in that type of state. Harold Burgess's state, for example - from what I can observe, there is very little police union activity in that state. It is a right-to-work state; we could go down the line of other states of that type. In the state where you don't have a right-to-work law, you will find more activity in law enforcement as well as private sector.

Unidentified speakers:

One of the things that came out during our negotiations and I might refer to it at this time, was the fact that the superintendent was against unions and, of course, his defense in this case was that he was working with the national advisory committee on standards and goals and I make reference to Chapter 18 where they have quite a bit of information having to do with employee relations pertaining to the police agency, and in this case they recommend it. So you are going to find out that as time goes on, that it is only going to be a matter of time that you may be faced with this problem.

Are there any more questions? ?:

Gentlemen, we thank you for your time and a good attentive audience.

Colonel Bonar:

Gentlemen, we are fortunate this morning to have with us a gentleman who has come down from the City of Brotherly Love, Philadelphia. He is here to speak to us this morning on Personnel Selection and Standards. He is Bob Haney who has worked with the personnel department in the City of Philadelphia for the past 19 years. His primary orientation has been test development. In 1968, he was placed in charge of a newly formed unit to conduct extensive job analysis with (inaudible).

In 1970 this intensive analysis was utilized to obtain more concrete data on the police command positions in the City of Philadelphia. These are the police captain, the staff inspector, the inspector and the chief inspector and a last example of this and his classes were based on this

analysis. From 1971 to 1973, he was deeply involved in preparing data and studies on the discrimination cases filed against the City of Philadelphia, alleging racial discrimination in hiring and promotion of police officers. That case was substantially settled by consent decree in 1973 and no quota or goals were included in that decree. For the past year, he has been involved in responding to other suits alleging racial and sexual discrimination and in running the group performing intensive job analysis in other classes in the City of Philadelphia. At this time, gentlemen, I present Mr. Bob Haney.

Robert Haney:

Good morning, gentlemen. First of all, I want to thank you for having me down here. There are a couple of things I'm scheduled to talk here a bit about. But there are a couple of things I would like to leave you with after I'm through. The first of them is that there is a lot of pressure on all employers including the police departments to be able to justify practices and the procedures that they follow.

We have, in the City of Philadelphia well over ten cases that are filed. You settle some, others go away, others you just keep on fighting. The other thing is that if you believe your procedures that you are following are good procedures, you may very well be right. And if so, when you get under pressure by the EEOC or from another group or threatened with court action - that rather than getting frightened and caving in, it is possible to put together studies that are required so that you can continue your on-going operation without disruption and, in fact, support those parts of the procedures any way they are capable of being validated. What I mean by the second thing is that when people come in with a fight, they tend to try to frighten you - to put a lot of pressure on you, the administrators. You can respond. It takes a lot of work; it takes a good bit of money, but it can be done.

There were three things that were on the letter that was sent to me that I should include in our talk. These were preselection standards for law enforcement personnel, test validation, and consent decrees. I would like to add a fourth one which would be promotions because I think we are talking promotions. The same problems exist; basically, the same technology can be employed. We are going to hit you with entry. We are going to do it either because your minority representation is too low and if that is the case, minority representation of the ranks is going to be too low also. But I can say that this is because of discrimination of the entries. Now

I think you will have to look at your whole package. There are a lot of pre-selection or a lot of standards that apply to police officers - probably more than to most other groups. Fire people have some, but I don't think they quite get as many as police. You have age, residency, citizenship, sex, educational minimum. You have all kinds of background characteristics that you are concerned about in an applicant. You have medical requirements of varying complexities. You have agility tests, and you have written examinations.

With the passage of Title VII of the Civil Rights Act of 1964, what had been at least in part in two prior pieces of legislation, also the Civil Rights Act of 1871, Sections 1981 and 1983. It was enacted by Congress and, in effect, what the law states is that if you have any employment practice that has the effect of adversely affecting a protected group, race, sex, religion, that practice is illegal unless the employer can demonstrate that there is a relationship between the standard that you apply and the performance on the job. With passage of the Equal Employment Opportunity Act of 1972, provisions in Title VII became applicable in the state as in the governments. Our suit is not a Title VII suit, but it was a suit under 1981 and 1983 amendment. But the courts have uniformly applied the law that was developed for private employers and there was Title VII to apply to cases that are under title and are not filed under any other action.

So you are really talking about Title VII. Now all that it says is that if you have something that has this effect, it has to be related. It also says that it must be necessary for the operation of the business; and courts have held that there has to be no available - reasonably available - alternative procedure that will give you the same men with lesser income. Now it sounds like a lot, but it really isn't very much. It's not really more than saying that if you are doing something, it has to be related to police work. And you have been doing that; I presume most of you have been doing that. We simply haven't had any legislation that demands that you come up with statistics. But you have been doing it if you have been police administrators who are concerned with getting the best people, no matter what race or sex.

I think that it is advisable for police departments generally, and certainly large departments specifically, to have several people in-house on their staffs who familiarize themselves complete with Title VII - also review court cases, studies that have been completed and review your procedures and assemble the data that supports the actions that you have taken. It may be that after seeing the data you will conclude that your assumptions were wrong and that there may be a need for change. On the other hand,

the data you collect may well verify or validate your existing standards.

There are two articles that I think that are worthy of reading concerning this issue of Title VII. They are both from the Harvard Law Review. One of them is called "Test of Seniority in Testing Under the Fair Employment Law," which is contained in the Harvard Law Review published in 1969 by Cooper & Soholm. It's a little bit liberal and takes one point of view. With any kind of action you are going to have people that have different points on the political spectrum - that is to be expected. The article is very good and it reviews the legislative history of Title VII. I thought I had the exact citation with me, but I don't seem to have it here. The other article is in the 84 Harvard Law Review in 1971, called "Developments Under the Law, Title VII." It is a very long article that takes a point of view which would be slightly more oriented toward employers. But it is good to get those thoughts.

I would like to conclude my presentation for now. I am scheduled to appear with the workshop group and I'm sure we'll discuss these issues in more detail.

Colonel Bonar:

Gentlemen, the next speaker on your program is Mr. Eugene Robinson who is associated with Marquette University. He is a minority community specialist. He has been associated with the Kentucky State Planning Agency as an adult corrections planner. He was associate director of the Louisville and Jefferson County Human Relations Commission, and executive director of the Catholic Social Action Commission. He has been associated with the Black Unity League of Kentucky, vice president of the Louisville Congress on Racial Equality, and executive director of the West End Community Council of Louisville. He lived in Louisville for 15 years prior to moving to Milwaukee in January 1974. He is a Korean veteran, and he has been the receiver of the Purple Heart on two occasions. He has been involved with police agencies for some seven years in some official capacity. At this time I would like to present Mr. Robinson.

Eugene Robinson:

It has already been stated that I'm a little bit handicapped. Not only didn't my clothes arrive, but my material didn't arrive. All that was in my luggage; so I'm going to be winging it to a certain extent this morning;

I will not be able to quote the kind of statistics that I would like to quote.

The business that we are about this morning is to discuss the ratification of the minority groups. I have the feeling that we cannot separate minority recruitment. And I would like to begin by getting a somewhat clearcut definition of what affirmative action is. If there are any fishermen or hunters or profootball enthusiasts in the house, I think you would have to realize that, as a fisherman, if you want to eat bass, if you want to catch blue gill, you will have to go through some pains - you would have to look at the weather report, find out which lakes they are located in. You go out and buy special tackle, special bait, etc., to catch the kind of fish you want. You also have to realize that the Chicago Bears have not sat around waiting for a contract and probably wouldn't have gotten it. They probably started to recruit Dick some time during his junior or senior year at college. And if you are a hunter, you know you don't go out trapping possums with a bear trap. You take some affirmative action - some positive action to catch the kind of game or to recruit the kind of individual that you want.

The police departments especially are just beginning to realize that affirmative action means just that. The fact that you have a good job available and a good salary is not enough of a magnet to attract the individuals that you want, especially when it relates to minorities or females. You must want that individual. You don't go hunting for rabbit if you don't want rabbit. You don't go fishing for bass if you don't want bass. And if you don't want blacks, Italians, or women on your police departments, your minority group recruitment effort is going to fail. Commitment is 99% of what you have to have before you even begin going out and trying to attract individuals to the job that you have available. And by commitment, I mean that commitment must be shared jointly by the chief executive officers not only of the jurisdiction but of the municipality for the state in which you happen to be located.

Whenever we start talking minority recruitment, you always hear the phrase, "lowering standards." It has been my experience that when many law enforcement officers speak of standards, they speak in terms of standards as they relate to the individual and the kinds of the individuals they have had on the force in the past. Not too often do we really mean standards as they relate to the kinds of policing we give our community, because I think if we related standards to the kinds of policing we give our

community, we would begin to realize that the police profession as it is currently structured is not in a position to afford the kinds of policing that communities want and the communities need. I believe, for example, that we are way past the point of recruiting the all-purpose officer, the general-purpose officer, a guy who can do every job on the force. There is absolutely no reason to believe that the recruit who comes on the force today, in three years will be a good investigator, in three years would make a good detective - because I believe a good detective and a good investigator have to have certain basic skills and these are not the basic skills that we look for when we go out to recruit.

What we are looking for today when it comes to minority recruitment is a ridiculous animal; it is almost an animal that doesn't exist. So we talk about lowering standards. I think we should take a good look at the standards that we do have and the roles that we define for policemen to play. And they have to be tempered with our knowledge of the roles that the policemen actually do play in society. For example (and I'm getting into statistics now so they won't be exact) but somewhere around 50-55% of all the arrests made in the country - and I know this holds true right down to each individual jurisdiction - are made for loitering, drunkenness, prostitution, possession of marijuana - those kinds of things. When we look at what a policeman really does when he is not out there getting dogs and cats out of trees, he is making hospital beds. You find policemen intervening in domestic disputes. That's the social worker's jobs, the priest's jobs, the rabbi's jobs - not the policeman's job. So we talk about lowering standards. We need to take a look at what policemen actually do and see whether the standards we have imposed for ourselves are standards that are reflected in the jobs that we do every day.

Minority recruitment is no easy thing to accomplish. It is a very tricky thing to accomplish because you are dealing with a group of individuals who mentally are still suffering the effects of past discrimination. Most police officers have to correct that. Most executives in the police profession are non-black and do not have a good working understanding of the mentality of black people today, especially black people under 35 years of age. This is the group you are dealing with. When I say the present effects of past discrimination, I'm talking about the fact that without some kind of a social or moral miracle, black people today still feel very, very persecuted and very, very unwanted. When policemen say to themselves we have a good job - why should we have to go out and get them, I don't

think they are considering the fact that in the past, the good jobs the blacks have been denied and most of the minority groups have been denied - so in their minds just the fact that it is a good job is enough for them to say to themselves, they don't want me. They have not been offered \$11,000 a year jobs before - not with any degree of sincerity behind it - so that the discrimination that was carried on, may be before your time and you had nothing to do with it, still has a contemporary effect on the minds of black people and other minorities. And that must be taken into consideration when you begin a minority recruitment program. That is the main reason why, instead of sending them out and saying we have a good job, let's advertise it and wait for the applicant to come in, is not enough, because in most cases they are not coming in because they are faced with the sheer weight of numbers in some cases on a recruitment drive when you are going down 643 non-black applicants and 43 black applicants. We know what numbers mean; we did go to school. It means that our chances of getting on the force are reduced by the sheer weight of numbers and the past discrimination, that you may have had nothing to do with, says that we're not going to make it. Therefore, there is no sense in going down there. And all these things have to be taken into consideration before you even begin to determine whether or not you are going to have a minority recruitment program.

What is happening today is that the federal government through the PTLC of the Justice Department and the Law Enforcement Assistance Administration is saying to jurisdictions - if you receive so much money from the federal government or the LEAA and you have so many employees and your service population is composed of such-and-such a percent, then you have to have an affirmative action program and it has to contain goals and it has to contain objectives and you have to report to us. You have to file with us a certificate that says you have such a plan. Many executives in the law enforcement field are simply doing a very mechanical kind of thing; they are putting together the kind of action program, sending it to Washington, filing the certificate with the state planning agency, and then going back and breathing a sigh of relief. Which is why we botch the whole tally. No commitment to affirmative action - no commitment to minority recruitment. This will backfire eventually in two ways. One is you will find yourself in a dogfight to maintain the federal funds that you do have, and the other is that you will find that your services to the community will begin to deteriorate even more. Because whether you want to accept the fact or not, when you talk about the community you are talking about the minority group, too. And when you talk about crime, you are talking about minority people. So if we are in the business of providing quality law enforcement, the same kind of law enforcement we think about when we say,

"Hell no, we don't want a lower standard," then we have to talk about law enforcement that encompasses every citizen in the community regardless of his race, creed, or color. And if we do anything short in that, we are prostituting the profession of law enforcement.

So, black people do suffer because in the present effects of past discrimination, they are apprehensive, they are distrustful, and they are not prepared. Again past discrimination affects their preparedness; black people do not study for exams -- they really don't -- they have no faith in exams. There will be exceptions. You will find blacks with opportunities; but for the most part, black people do not study for the exams. This begins in elementary school and carries on throughout their twelve or sixteen years of formal education. They skin through, they check notes with each other, cheat, copy and, more than anything else, they know that if they have to, in a certain way, they are going to get passed just so the teacher can get rid of them. And you have black people coming out of high school today in cities all over this country that cannot construct one correct sentence even if it is six words or less - that don't know the difference between a subject and a predicate - that don't know the difference between a transitive and an intransitive verb - that never read one word of Shakespeare. They think Watergate is something that you use to keep the dam from breaking. Unfortunately, more and more, this definition of today's student is true of young whites; true because the system is failing us but it is failing black people more because we don't have the domestic situation that is based upon the season.

You see, in most non-black households you get people who have gone through high school to get a diploma - you have people who have gone through college and have a degree. There is a mother at home in most cases - there is a bigger brother pushing -- there is competition - they are competing against each other - they are competing against the kid down the street - they are competing against dad and his tradition; mom and dad belong to an alumni association - they have a relationship with the schools and colleges. In too many cases, this doesn't exist in black homes and the motivation to achieve is not there. Now again, this has an effect of past discrimination that you possibly had nothing to do with. But the reality of the situation is that it exists.

Black kids are not learning and, therefore, they are not prepared to take an exam that is basically composed of three, four, five or six syllable

words, some of which they have never seen before in their lives. They don't read Readers Digest. They don't do the exercises to increase their word power, they don't read Life, they don't read Time, they don't read News Week, and most of them don't read newspapers. So when you talk about minority recruitment, you have to talk about the fact that there's an animal unit out there to trap that is not prepared to undergo the kind of selection process that exists and has existed for years and may no longer be relevant to quality law enforcement.

The federal government is saying you have to have black officers - you have no choice. You have to try to go out and find them. In that case, the motivation is there for you but in other cases, you must examine your need for black officers and if you examine your need for black officers on the stand, objectively, you will probably find out that the effort that you can put forth in behalf of quality law enforcement will be greatly advanced if you can add black officers to the force for several reasons. One - most of your crime that you are dealing with in the country today is committed by black people against black people in black communities. And if you, as a law enforcement officer, cannot feel that you can expect any degree of cooperation from that community, each time you go into there, you are laying your life on the line and you are twice as bad off as if you go into a white community where there is so much respect for law enforcement. This requires instead of sending one officer in, in many cases you have to send two or three. At least one has to watch the other act. You find yourself going in with fire trucks in order to protect the firemen where normally you would not go in. You find yourself at a loss when you want to investigate a serious crime in the black community. You get black people who won't talk to white officers in some cases. You find yourself at a loss because when you get out on the street in a black community and you can't speak the language out there.

Because you are really talking about quality law enforcement, you are talking about having at your disposal the tools that are necessary to dispense law enforcement. Heaven knows, if you want to unscrew a phillips screw and you don't have a phillips screwdriver, you have a problem. By the same token, if you want to unlock a mystery in the black community and you don't have a black key, you have a problem.

The minority recruitment effort, itself, should begin with a good examination of the statutes, the ordinances that govern the operation of the

police department. Many police departments have little or no control over their recruitment or their selection of officers. It is because the personnel responsibility and, in too many cases, personnel and the police department are strangers -- like a husband and a wife getting along in the same house. There is a competition that exists between them; there is a jealousy that exists between them. The Los Angeles Police Department pride themselves on being one of the best in the country, and if you ask the recruitment section in LAPD how many in the present recruit class came as a result of their recruitment efforts, they couldn't tell you because personnel will not give them a way of determining out of a computer printout of over a thousand names which one of those names came as a result of their efforts. To this day, the recruitment section of the LAPD has no way of evaluating its efforts. It is simply because personnel and the police department will not cooperate with each other. This is true in a lot of departments across the country.

One thing you have to determine is what can you do legally, like the jurisdiction of the chief of police. He really doesn't have any powers. The best thing he can do is suspend a policeman for up to 21 or 26 days. Beyond that it goes to the police committee and there is one policeman on this committee who didn't want police personnel. I think when you talk about what is good, you have to talk about the fact if you want to control the people coming on your force you are going to have to control the selection process and the recruitment effort. Policemen need to be about the business of demanding that they be given the responsibility of finding and putting on the force the people that are going to be policemen in the future. As long as non-policemen occupy that role, you are going to have a problem. If the statutes need to be changed, you have another problem because policemen can't lobby officially. Policemen do not have advocates like other groups in society do. Nobody speaks for the policemen and in most cases, the politicians are not concerned. As long as things are being kept under wraps and everything is quiet, they don't care if you have an adequate number of men on the force. They don't care if you have the proper tools to carry out your law enforcement responsibilities, and they don't care how happy you are.

There is no police, and I might even say the FOP in that respect has failed to become a true advocate for law enforcement agencies. So you have to take that into consideration when you are talking about the beginning of a minority recruitment effort. If you find that you are able,

it almost has to begin with very, very strong personal public statements by the chief executive officer of the jurisdiction and, if possible, the chief executive officer of the municipality. That is to say that your chief of police or your superintendent should publicly state on radio, TV, and in the newspapers, that they have some openings for black officers. We know what has happened in the past, and we are doing everything to prevent it from happening again. And believe me, if you are black and you can qualify, we will take you on. And that is necessary because, in too many cases in the past, word of mouth is probably the best advertisement. Too many cases in the past often found black men applying for jobs in law enforcement and have not been put on the force. In one case, they had a man pass his degree (he had a doctorate) who applied for the police force and he came home good in his exam. During his psychological interview, it was determined that he wasn't sufficiently motivated to become a police officer. So he went from 12 to 21 on the list. He came to the force yesterday, the 21st. He had waited a year. I talked to people in that community and all of them, black or white that knew this man, said that the only thing he wanted was to become a police officer. That is what he lived for. But the strong statement must be there in the beginning because black people are not going to look twice at the posters you put out.

So it is going to take a fantastic effort on the part of the law enforcement agencies to convince black people that you are really true. Each time you find yourself wavering in that respect - saying do I have to go through all these changes to get them, it's really because somebody went through all those changes down the line a few years ago to convince them that they weren't really wanted. And you cannot reverse that type of thinking in the minds of minorities.

As a support for that kind of thing, let's look at the facts. Let's assume that all law enforcement officers are moral and always have been - that no law enforcement officer that ever existed in this country never had any hatred in him, never had any bias in him, and really didn't have any hatred about black people. Then you go back to the 1800s and you find the country passing a law that said a black man was a slave. When that became law, it became your responsibility to enforce that law. And when states and cities have laws written or unwritten that said black folks would step off the street when white folks came by and one of them didn't and the white person complained, you had an arrest to make. It wasn't your choice. You didn't have a moral alternative at that time. So law enforcement officers became the instrument of enforcement for

immoral laws. It is as simple as that. It is not a question how morally right or morally wrong, how good or bad a law enforcement officer was at that time. It was the question of the law as it related to his responsibility of upholding. If the law said a black man didn't look at a white woman, you enforced that law. If the law said that blacks and whites didn't get married, you enforced that law. It was not a question of whether you liked it or hated it. If you were a good law enforcement officer, you enforced the law -- simple as that.

Now black folks generally are not in the business of determining whether a law enforcement officer is good or bad at any point of his trying to administer his duties. All they are concerned with is how it affects them. If it affects them adversely, then they feel bad about that officer the same way you would not like the man who came from the gas company to cut off your gas. He doesn't want to cut it off, but he got an order from the gas company office saying you didn't pay your bill - cut it off. You may not even let him in the house - you may point a shotgun out the window and tell him - if he doesn't get the hell away, you are going to blow his brains out. He didn't do that no more than the cop did who is coming down to arrest Johnny. But the problem is there and the person that that person has to deal with is the person who is coming to cut off the gas and the person that the blacks have to deal with is the person on the porch knocking on the door, saying -- I have a warrant for the arrest of your son. They don't give a damn whether the mayor signed it, or the judge signed it, or a magistrate signed it. They're worried that that officer in that blue uniform with that gold badge is on the porch, and they don't like it.

So, again, with all these things, when we talk about minority recruitment we are not talking about going at them. Once you have come forward with a fairly strong statement from you chief executives, you should become alert about setting up a permanent recruitment section within your jurisdiction. That recruitment section should have some status; that is, you shouldn't take the sergeant out of the wings and put him in charge of two or three patrolmen and say - O.K. go out and let me know what happens. First of all, you have to choose the right individual. Second, you have to train him. Recruitment is not a simple and easy thing to accomplish because you may get a black person in your command who doesn't know a thing about the area that you want to recruit in, although it is black.

Some black folks have never seen a rat - some black folks have no concept of what welfare is - some black folks never shot craps - some black folks don't speak street language any more than some white folks. As a matter of fact, some white folks speak it better than some blacks. So you have to choose the individual carefully, and then you have to give them some skill in recruiting. They have to be able to walk straight and they have to be able to convince those people out there that this is a good police department. So you are going to become somewhat of a public relations man, too, and the training is absolutely necessary and the status is necessary. And that is to say by status, that recruitment section should be next to a ranking division or department in their agencies. It shouldn't be down in the bottom of the sod of the organizational structure. If possible, it should be right next to the office of assistant chief, or deputy chief, and it should be important to him.

You should also have, along with your public statement from the chief executive officer, a clear-cut directive that reaches down into the bowels of the organization and touches the last patrolman, so that every man on your force knows that you are going to recruit minorities and you are going to put them on the force. And if they understand some of the reasons why and, if necessary, you may have to call a few guys in and sit down and talk to them as to why this is going on and what you expect of them in relation to that. You can believe me, just a few officers who had no understanding, who are of a mind to - can scuttle your recruitment effort.

Last year in Kentucky, we had X number of dollars of LEAA money in the Liberal American League. In conjunction with the LEAA and the police department, we put together a minority recruitment program with a strong statement from the executive officer and a lot of publicity. Just for discussion purposes, let us say that the drive was to be kicked off on Thursday. On Thursday, they were going to be taking a lot of pictures and so on. They were going to kick off their recruitment drive. On Wednesday night, the chief of police suspended a black sergeant, who was head of the local black police officers association, for wearing his hair too long. Needless to say, the recruitment effort failed because, for the next three weeks, the black folks were fighting to get the man back on the force -- meetings almost every night of the week.

Now it was during this time that we began to examine why did he have to cut his hair. He had an Afro. It's probably something else a lot of

these non-blacks don't understand. It's what's with the Afro. But the Afro is there - it is a style. It is a style, just like button-down collars used to be -- like long hair for young whites is in now - like women are wearing high-heeled shoes and men are following behind wearing high-heeled shoes -- it's a fad. Their answer to his cutting his Afro down was that he couldn't wear his hat. His Afro was so big, he couldn't wear his hat. His question was -- If you can show me a reason related to good law enforcement why I have to wear that hat, I'll cut my Afro and put it on. If you can show me the utility of that hat, I'll cut my Afro and put it on. They didn't even make the effort. I really don't believe there is a function for the hat unless it is to carry some tickets inside or something like that. But it does have a function as to complete the uniform and I think that most law enforcement officers will stick with that. It is the uniform. But when you talk about whether or not he was a good police officer or was he performing a function of a police officer and you weigh his value as a police officer against that value of that hat - it's simply another piece of chalk. This comes especially in light of a lot of departments around the country saying you don't have to wear your hats.

I had an offer not too long ago to join the Black Muslims. I happen to agree with them on a large part of their psychology. One of our biggest hangups was they didn't want to shake my hand and another one was I couldn't get down to eating just one meal every day at 4:30. I'd better explain that part of the psychology that I don't agree with is all white. But I had a hangup about the hair. I didn't want to shave my hair, and some blacks don't want to cut their Afro. It marks them - it really does. So weigh all of these kinds of things when you are talking about minority recruitment and if the value of maintaining that particular standard (you see, that is a standard, too; that is a part of the standard) and if the value of maintaining that particular standard is more important to you than the value of having a qualified officer on the force, then I guess that is your decision to make. But in any event, you have to have that clear directive handed to the last patrolman and everybody on the department has to understand what you are doing and why you are doing it and that they are expected to cooperate.

You also have to define the rules and responsibilities of everybody in the recruitment effort. Each officer involved should know what his role and responsibility is. He must know that there is a chief of the recruiting section. He must know what that chief's responsibility is and what his responsibility is to the chief. He has got to understand a new chain of

command that he is in. But roles have got to be defined and the time-tables have got to be set up, and goals and objectives have to be put forward.

Now the goals should be a departmental goal. Individuals in this situation should never be assigned goals. They should be assigned responsibilities, but goals should be the goals of the department or the goals of the recruitment section. Adequate money, adequate manpower, adequate material, adequate training, have got to be achieved. I only know of one jurisdiction in this country, and that is St. Paul, that has put together a productive recruitment campaign for very little money. No form of organization, no formal recruitment section at all, they assigned a deputy chief to it and said - do it. They got nine police officers and nine police officers worked much of their time, with my advice, during off-duty time putting together this recruitment effort. They conducted classes for the people coming on the force. Not just the black people - anybody that wants to get on the force, they have classes for them. These nine guys have them. It's the only one in the country that I've seen. I think they were able to do it because the chief let it be known, in no uncertain terms, that he wanted blacks and he went out and he met every roll-call, and he spoke to every roll-call, and he let every officer on his force know that they are coming - that we need them - and I'm not going to stand for any guff out of you guys. If you can't stand the gig, get out of the kitchen. I think mainly because of that, those officers were able to put together that good effort and they didn't hit bottom.

Now let's examine your selection process. Here again, we get into this whole thing about standards. You have a man in one jurisdiction that the only place they recruited for blacks was on college campus. They didn't recruit any place else except on the college campus. Now when your selection process started, about 80% of the blacks that they recruited passed their written exam and passed their physical exam. 64% that passed of the 80% failed the physical agility test -- it was a pass-fail physical agility test and 64% of the blacks failed. That means that they went to all that trouble to go out onto the college campus and recruit blacks that had high academic potential and then failed because they couldn't pass the physical agility test. And that says for them that you should have gone to the American Tournaments to recruit. You didn't go out to get that kind of thing.

When you are talking about going out there and recruiting law enforcement officers, if you are going to a college campus to recruit, I can only assume that you are looking for an academic person - you are looking for an intellectual person - you are looking for a person who can deal with the day-to-day discretions that a police officer has to deal with. If you find him somewhat lacking physically, I say you ought to develop an academy program of preparedness that, after the 10 or 15 or 21 weeks you have him, you have the physical specimen that you want. Or if you go out looking for the physical specimen, develop him intellectually in your academy or you recruit him from places other than the YMCA or other than the college campus. Just looking for that individual that has a certain amount of both qualities. If you restrict your recruitment activities to the college campus, what you are saying to the black community is that we want intellectuals. And when you go out there saying you want intellectuals and then you fail those intellectuals because they can't do push-ups and pull-ups (which, incidentally, doesn't have a damn thing to do with determining whether a man is going to be a good police officer), you have said to the black community -- you have found another way to keep me off the force. Push-ups don't tell nothing except a man can do push-ups - that's all.

Now some police departments have what they call a strength endurance and agility test. The name has a lot of what you are doing. You say to a black person, we are going to check out your physical agility and you make him do push-ups, pull-ups, and chin-ups. He says - they didn't check nothing about my feet or my hands -- that doesn't have anything to do with how agile I am. I played a little bit of high school football and I know what an agility drill is -- they take these tires and put them out there and they space them and they make me step between those tires to see how agile I am. These guys are telling me they are going to determine how agile I am by making me do a push-up and I know that isn't right - I'm not dumb. Now, you see inadvertently and sometimes subconsciously, you are giving this image to black folks simply because this is the agility test you have always had. It worked in the past and you saw no reason to re-examine it in light of this new recruitment effort you are putting forth. Subconsciously, you have said to black people - we have found another way to keep you off the force. You really didn't intend to do that - you just didn't get real serious about the minority recruitment effort - so you didn't check everything.

You look at your selection process and you find that you are giving applicants a written exam that is the kind of exam an applicant might take in his freshman year of college or his senior year of high school. Then you

look at the officers that you have on the force and you look at what they are doing. Outside of a small percentage of the officers on your force, you find that the main thing that they have to deal with in reference with academics is writing those reports every day. Now if a man has the understanding and reading ability of a ninth or tenth grade high school student, he can probably make it academically on the force. What you may say is that is going to limit his upper mobility some because if he is ever going to become a sergeant - if he is ever going to become a first rate detective - if he is ever going to reach inspector - or if he is ever going to become a deputy chief - he's got to be more intellectual than this. Look back at your department and let's assume you have a thousand-man department, or 800-man department. How many of those men can honestly expect to ever become detectives or lieutenants or chief or assistant chief? Look at your table of operation and you find that out of a 1,000 or 800-man department you probably have less than 100 jobs that really require a person of ultra-high intellect at the college level. You may find out that what you are doing by recruiting off of college campuses is hiring just the men who are not going to stay with your force because a man with a degree, who really has a head on his shoulders, is not going to sit still for 11 years to get a promotion. He is not going to sit still for eight years to get a promotion.

You are always susceptible to that change of winds in business and industry whereby, if they decide they want the man that has the college degree, they can get him. You can't keep him because your jobs are dangerous; he faces a life or death situation every day. I don't give a damn if he sits in the office and does nothing but reports, he is still a police officer and he is subject to be called out. Your jobs don't pay that much and, in most cases, it takes at least three years before a man is even eligible for a promotion. And then, due to the fact that you have somewhat of a low promotion rate and the fact that only a small percentage of the force that can become detectives anyway, he generally faces upwards of five years before he can be expected to be promoted to the next highest pay. On top of that, police departments have married rank with tradition and that is the same as a certain number of financial increments that you are going to get as a patrolman and they are not that great compared to business and industry and that is to say you are not going to get a particular salary. And take your rich sergeant -- when you know your chances for making sergeant, you say I have a long road to hoe.

In the army they came up with the solution to this problem. They came up with a specialist rank. They said that if you can develop a skill, that would qualify you as a specialist, we can move you into the rank position as a specialist. You can either become E4 as a corporal or you can become a specialist 4. So maybe I'm not the strong athletic type - maybe I don't like the rank and file activities every day of the United States Army, but I can go away for eight to sixteen weeks of clerical school and become a good typist and I can get promoted to specialist 4 as a good typist and make the same amount of money as a corporal. They came up with a field rank, and they came up with a specialist rank. Maybe police departments should start thinking about giving some kind of incentive between patrolman and sergeant and break that five-to-eleven-year period up so that a man can continue his achievement mentality that he has had in society.

From the time he was born, he has always been pushed to achievement, to compete and achieve. He goes into the police department and he finds that no matter how much he achieves, the reality of the situation is that he has five years to go before he is going to make sergeant because there are so many people on the list ahead of him because longevity is taken into consideration for promotion in most law enforcement agencies. And if you happen to be a black and you realize that blacks have not been cops for as long as whites, then you have to realize that longevity is a greater enemy to the blacks than it is to anybody else. In some cases the courts have to clear up longevity. It's discriminatory. It's like our grandfather clocks. So you think about all that when you talk about minority recruitment.

My impression is that law enforcement today really needs to look at the officers they have and what they do and what they require in the way of an individual. I think you should start recruiting for administrative people. I think we should start recruiting for the inspectors, the detectives and specialists.

In an eastern city, they have probably the best equipped photo lab of any police department in the country... some of the most sophisticated photo equipment you have ever seen. The chief of police of that city is determined that the photo section will be staffed by policemen. He doesn't want any non-policemen in there. In order to be able to operate that kind of equipment and be that good at photography, you can get a job with Time

magazine or anywhere else you want. So you can't find anybody who has the skill to operate the photo equipment who wants to become a policeman. So they are still using the Polaroid camera with all that equipment sitting there because the chief will not allow a non-police person to become involved in the photo lab. I'm sure he has his reasons for it, but I don't know if those reasons outweigh the fact that they don't have quality photography even though they have a multi-million dollar photo lab sitting up there. Now why can't they come up with a category that would allow them to hire people. They evidently need that kind of photography or they wouldn't have bought the equipment. But it is sitting there and nobody has touched it since they bought it. People do a lot of crazy things, and policemen are people so you have to assume that policemen do a lot of crazy things, too.

Your selection process should be the kind of process that will allow you to get the kind of person you want. That is really what I'm saying. So if your selection process is prohibiting your getting the kind of person that you want, then you have to change that selection process. You cannot hang on to it and make it valid simply because that is the way it was always done. You really have to take a good look, scrutinize your selection process, and see what is in there that can be taken out. For example, does a man have to come off a college campus with a degree, take a written exam, then take an oral exam, and then go through a background investigation, and then take a physical exam and then take a physical agility test and then have an interview to become a policeman. You know, when guys are talking about job development -- let's say in your 10th or 11th year of high school - you go to a job counsellor and he tells you, well look, you have to go to school, you have to achieve in school because it tells certain things about you - it indicates your capacity to learn, it indicates your capacity to conform to fairly regimented situations, it's an indication of your sociability with other people, it will give an indication of your reading comprehension and so forth. This is what black folks were told - you have to understand that.

A few years ago, the whole thing was to stay in school and get an education, and education is the key. James Brown came out with a little song -- stay in school black folks, stay in school and get an education because that diploma will tell certain things about you; that diploma will indicate that you can achieve; it will indicate that you have the motivation to get ahead. Now here he comes to be a policeman, and he not only has that diploma but he has a college degree and you are telling him he needs a psychiatric

examination, a physical agility test, a physical test, an oral interview, and a written examination. He looks at the sheepskin he has got, and he says they told me to get this and now they are telling me it doesn't amount to a hill of beans. Black mentality must be dealt with. I don't say that it is right and I don't say that it is wrong. I say that it exists. It is real.

Black mentality exists and the fact of the matter is that it is different from white mentality. If I run you through one tunnel over here that has 99 showers in it and all turned on and I run someone else through a tunnel over here that doesn't have any showers in it, but filled with perfume and flowers when you come out on the end of those two tunnels, each one of you has a different mentality - you feel different. One guy is thinking of getting the hell out of those clothes; the other guy is thinking, if they had put a woman in there I would have never come out. And that is what happened to black folks.

This country ran us through two entirely different tunnels and there is no other group in the country that could make that claim. People are fond of saying, well look at the Irish. Well, we have to look at the Irish because law enforcement didn't accept the Irish any quicker than they are going to accept the blacks. Most races had problems when they came to this country, but when you look at the total experience of any non-black minority group in this country and compare it with the experience of the black groups in this country, you will find that every group except black folks, when they came to this country, were allowed to maintain their families, to maintain their religion, to hold jobs. They were allowed to vote, to develop businesses, to marry and have children that they kept. All this is not true for black folks. When black folks came here, their families were totally broken up, children were sold. If they had children, they belonged to the master - they didn't belong to them. They weren't allowed to marry. They were mated for the purpose of coming up with a good strain of black bucks, just like you mate bulls and cows and horses today to come up with better grades. It didn't happen to any other group in this country. No other minority group in this country was denied the right to vote at any particular time.

When you talk about 350 years of this kind of oppression, you have to understand that we came through a different tunnel and our mentality is different. Right or wrong, it doesn't make any difference - it is different. And you don't recruit whites the same way you recruit blacks

because blacks don't think like whites today, and they won't until we accept the fact that black folks think different. We don't act any differently in most cases.

If you think the riots we had in '67, '68 and '69 were something, then you should read about the pullman strike in Boston and you should read about the strike of the longshoremen in New York docks. If you think the riots we had were something we learned from history, we are doing the same thing white folks did a few years ago. You just forgot that you did it. We don't act any differently - we just think differently. Our mentality has been warped - I really mean warped -- because as a black person, I will be the first to tell you that our mentality is probably one of the greatest stumbling blocks to our getting where we are today. Our mentality causes us not to go through some doors that are open. Our mentality causes us to reject some good effort to give us the kind of systems that we need. Our mentality causes us to hate, distrust while folks that don't want the hating and distrust. I think a lot of us understand that, but the fact is the mentality is there. When I get on an airplane and I sit down beside a white female I feel funny. I don't want my elbow to touch her elbow. I don't know what her reaction is going to be. I don't want to fall asleep and have my leg fall over and touch her knee. I don't know what her reaction is going to be. And the Lord knows that if she reacts adversely and comes across with one of those demoralizing, dehumanizing looks or happens to say something out loud, my trip is ruined and I'm in bad shape for the rest of the week.

You don't have anything to worry about when you sit down. It doesn't come your way. I have to think twice before I go any place throughout the South. I refuse to go to Prichard, Alabama. I just wouldn't go and I had to think twice about coming to Charleston. And I think if the people from the Maryland State Police hadn't asked, I probably wouldn't have come. Now you say that is ridiculous - nothing is going to happen -- this, that, and the other. But this is the kind of little things that go into shaping the mentality of black folks. Again I say this isn't right or wrong or justified. But it is there. We fantasize just like everybody else. We have problems. I generally don't go out on the street at night in places like this. I take precautions. Even today, I make sure there are certain people who know exactly where I am all the time - and that may be the kind

of a fantasy that is unwarranted. But I'm determined that I'm not going to disappear. Most white folks don't have that to contend with because basically this is your country. You are trying to tell us it's ours. We really want to believe it, but mentality says that you have to show us. And that is what this whole minority recruitment thing is all about.

Look at your academy curriculum and see if your academy curriculum is reflective of your minority recruitment. No, it is an objective. If you are going to recruit from a college campus, you shouldn't have 21 hours of spelling in your academy program. A guy that has a degree is going to be bored to death during every one of those hours. If you are going out to recruit women and you know that women are not developed physically like a man is, then adjust your academy program so that those women who fall short in the physical area can pick it up in your academy. The academy should take a partially prepared person, a partially developed person and continue developing him to becoming a quality law enforcement officer. If you are going to get everything you want in an officer out of your recruitment drive, then all you need to teach him in the academy is some rules and regulations on how to shoot, because you are going to get that 100% officer off the street. If you are going to get one as intellectual as you want him, as physically capable as you want him, as motivated as you want him, then what are you going to do with the academy besides teaching him the rules and regulations on how to shoot.

I keep wondering what the police academy is for except teaching a person how to shoot and the rules and regulations, because our recruitment efforts and the demands that we make upon the applicants on all of these entrance examinations are an indication that basically we have the person we want. We just have to smooth off the rough edges. The academy curriculum shouldn't have any fat in it and it should be reflected in the rules and objectives of your recruitment effort and the rules and objectives of your law enforcement agencies. In the police academy today, none should be without some courses in human relations. No academy should be without them, and it should be one of the best courses you teach at your academy. We all need it - white folks as well as black folks. Law enforcement is never going to be the law enforcement it should be until you can come up with some coordinated effort for black folks, Italians, Chicanos, Puerto Ricans, women, everybody. Every academy should have some courses in human relations, and every department should have some kind of in-service training program designed to keep a policeman abreast of the social climate of their jurisdiction as well as the country. In-service training, there are people all over this country,

black and white, that are qualified and ready to provide in-service training.

One of the most important things you should do as a law enforcement agency is to determine what internal grievances exist on the part of black officers already on your force. If the black officers you already have on the force are not willing to go out into their community and say yes, it is a good place to work, you have a problem. In too many cases, those grievances are not voiced, partially because there is no mechanism by which they can be voiced or the mechanism that exists, the sham mechanism, and the black officers haven't been made to feel that whatever their grievances are, they will be acted upon.

You must consider the internal grievances before you even begin recruitment. Recruitment is almost a science. Look at different communities and you find that black people and white people between the ages of 21 and 35 are deposited in a lot of communities. They are deposited in certain job categories. You go to one town and you find that a lot of them are driving cabs; you go to another town and you find a lot of them working at the university hospital. You go to another town and you find a lot of them employed as bank clerks and hospital orderlies and these kinds of things. And a lot of them are intellectual people. But you may be between the age of 21 and 35 and don't want to go to college. Maybe he really wants to become a doctor but he doesn't have the money to go to school, so he goes to work in the hospital. Maybe he can't find a job, so he takes a job as a bank clerk, or a runner. A lot of banks employ money runners. Look at your major industry - you might find that a lot of them are employed as guards at industrial plants. You might find a lot of them being employed by the armed guards in industrial places, and you have to determine where you want to recruit and what kind of man you expect to get out of there. You can't just run out and find the people you want.

In most cities you will find Simon -- remember the game we used to play as kids, "Simon Says?" Simon says this and Simon says that, and if Simon didn't say it, you didn't do it. In most black communities, there is a Simon or several Simons -- Simon being a thing or a person or a situation that is dictating to the black community how they will react to your minority recruitment program. Sometimes Simon is the local loudmouth who is saying that anybody between the ages of 21 and 35 in that town, black and male, who comes on the police department is

going to have a problem if he gets back into the community because they turned him off. He is a turncoat - he is a sell-out, and so forth. Maybe this is all coming from the local loudmouth who runs the street, who runs the block. Maybe you have to deal with that Simon. Simon may be the fact that two weeks ago two police officers arrested two black women and instead of taking them straight downtown, they took them for a ride in the country and then downtown. That may be Simon, that may be the issue, that may be what he is telling black people what to do. You will have to determine if Simon exists and if so, in what way does Simon exist. Who is telling the black people what to do? In some cases it's the NAACP, or the Black Panthers. In some cases it's a bussing issue, a lack of quality education, a need for medical services. But black folks generally have a Simon in their community. If you can deal with Simon, you can establish the kind of credibility that will ease your problems in minority recruitment a lot.

I just came out of Evansville and in Evansville, Simon happened to be a young man who used to be big with the Black Panther party there and a couple of guys that worked for the community action program. They generally set the tempo for the young guys, and the tempo was, "Don't join the police force." The police department didn't know who he was or, strangely enough, didn't know where he was. I talked to him the second day I was there, and he was not unreasonable. He would love to talk to the chief of police, would love to talk to people about what was needed in the black community, would love to become involved in helping find black officers to get on the force, providing certain kinds of situations can be brought about. So Simon can be dealt with if we can get another Simon to deal with him - Simon says - Simon does. Our mass media should be handled by a professional advertising agency, if possible black. General Motors does not develop a new car and put the advertising of the new car in the hands of some idiot, untrained. Business and industry doesn't do that in any respect. Old Milwaukee beer is a good example of it. It just hit the market about a year or two ago - one of the most fantastic advertising campaigns I ever saw --and right now it is one of the best-selling beers in the country. On the other hand, other beer places are going out of business.

Mass media advertising is important. In some cases it is expensive. But it gets you what you want if you put the effort into it. And I don't think it should be handled by a non-professional. The material you put out in conjunction with a minority recruitment program must be worded

in such a way that people will read it and understand it -- people that you want to understand it and need to understand it. Your initial contact with the department is important. What does an applicant run into when he comes in to apply? In one city when an applicant comes in and wants to join the police department, they take his name and address on a little 3 x 5 card and they tell him - "We will call you." That's it - and he may not hear from them for six months. At present it takes almost two years to get on their police department. The statute governing their recruitment and selection process is fantastic, total control. So all the police department can do is take his name and address. The minute that man hears, "I'll take your name and address and phone number and we will call you," he's done. He's not going to ever come back - never. So initial contact is important.

Another city has a young lady now serving as a receptionist in the police department and this is where you went to get your applications and this is where you went to turn your applications in. They couldn't determine why so many people were coming in and applying - but none of them would turn up for the test. They found out that she was doing her own screening, sitting right there. If she didn't like the applicant, she threw his application in the wastebasket. Now, she didn't know how to score an officer - she is just a secretary. She has been called on the carpet twice and she still does it. The director says, "Why don't you get rid of her?" It's because she's civil service.

Initial contact is important. One thing I have come up with in my travels in dealing with recruitment program is the need for a recruitment/ liaison officer. I think a recruitment/ liaison officer is necessary to help an applicant get through that time period between the time he applies and the initial step of the selection process. Sometimes that period can be as long as six months and during that time, a lot of departments lose a lot of applicants because there is no on-coming discourse between them and the applicant, especially in the area of state police departments or state trooper or state highway patrol departments when you have a large area to deal with. My suggestion is that you identify a recruitment/ liaison officer in each command district. They should be constantly in touch with the recruitment headquarters at your state police headquarters so that when somebody inquires about employment, they will not simply say to them, "I will take your name and phone number," or you don't simply say to them, "You have to report to the barracks in the district." You say that to them and you give that information to your liaison officer

and for the next six months, that liaison officer maintains some kind of contact with that man weekly. If the man has personal problems, he tries to help him out with them. The liaison officer arms himself with certain kinds of information like what social agencies exist in that district, and what can those social agencies do, where can I send that guy to get an emergency food order, how can I help the guy find a lost child and those kind of things. Or he doesn't have a discharge and he doesn't know how to go about getting it.

A liaison officer who helps a person in these little ways is saying to that man, "We really want you and we are really going to help you." In the case of blacks, this is a tremendous boost mentally when, without expecting it, somebody from the department calls and says, "Hey, I'm officer so and so. I'm in this district - I'm the recruitment liaison officer and I understand you called about employment the other day. Can we get together and talk about it? Maybe I can give you some tips on what happens inside the department, how to go about preparing yourself for the physical agility," and those sort of things. You would be surprised how that makes a man feel, especially a black person. A liaison officer doesn't have to be black; as a matter of fact, a recruitment officer doesn't have to be black but I think he has to have some black input, some black assistants. I prefer that he be black. My recruitment liaison officer isn't assigned this duty but it becomes part of his regular duties. Generally, it is a person that sees the value in minority recruitment and says, "Yes, I will do this whenever I get a chance."

We also need to develop, I think, a field of wives of police officers to deal with that applicant who really doesn't want to join the force. Maybe he is reluctant. Some applicants come down and make an application and never show up. When you ask them why -- "My wife decided that, she is hung up on this thing," etc. This is the kind of thing your recruitment liaison officer can find out in that interim period. Maybe you can have a group of wives of the police officers who can go in to sit down and talk to these women about the life of a police officer. You should have a statewide structure for minority recruitment. It should reach all the people of your structural organization. There should be someone at every command district - there should be someone in every precinct who is aware of the recruitment program and be willing to assist you in recruitment.

I don't see anything wrong with preparational classes, classes that will help an applicant prepare for the kind of test he is going to get. You have to understand, gentlemen, that some of these applicants that came out of school upwards of three years or four years, and they may have not been the best academically when they were in school. What I'm not saying is that you have to sit down with them and give them the test or tell them what is on the test. But you can sit down with them in your preparation classes and find out what some of the shortcomings are academically and deal with trying to show off their shortcomings as long as you know they are going to have to have it for the exam.

Last but not least, I just want to issue one last plea, and that is that we don't fool ourselves about policemen and what they do, that we do not keep saying to minority applicants this is the kind of officer we want - these are the qualifications you must have in order to join our department. You know we are asking for more than we have and more than we need. One of the quickest ways to destroy your credibility with a young applicant is to say to him you have to be able to run the 100-yard dash in 20 seconds, or that you have to be able to do 10 push-ups, or you have to be able to do five pull-ups, and the man that is talking to him and telling him this has got the biggest bear gut, is breathing heavy, smoking. This guy knows that here is a sergeant that couldn't run ten feet, that couldn't do push-ups because his belly would get in the way, and there is no way in the world for him to do a pull-up. He is telling me in order to join the department, I have got to do all of this stuff. One of the worst things to minority recruitment is to say to an applicant you have to qualify in these areas and have them look at the policemen on the force and say they can't do it. That is where job relating comes in and that is where you are losing the battle in the courts.

The courts are saying that if you don't require that an officer maintain his physical condition in order to do the job, how can you require that applicant be able to do it when he comes on the force? What you are saying is that here is an obstacle. If you can get over this obstacle, we don't care how fat you get - we don't care how fast you can run - we don't care how long you can hold yourself up by your hand - we don't care once you get on the force. So what you are saying is that it isn't necessary to do your job -- just to get on the force, it is necessary. And that is why my final plea is to look at yourselves and look at your departments and find out what is necessary to do the job that you want to do. Then go out and find the man that can do the job. If you find somebody that can do the

job better, fine. But don't set your sights so high that you find yourself right out of the market unnecessarily. A policeman's job is not an easy one and in most cases it is not a happy one; but it is a necessary one. The more realistic we become about the individual law enforcement officer and the qualifications that are necessary to carry out the kind of a job we want, I think the better off we will be in the future.

Colonel Bonar:

The next person that we have on our program will speak on information systems and privacy and security issues. I think he is familiar to most of you in this room. He is C. J. Beddome, who is the executive director of the National Law Enforcement Telecommunications Systems in the United States. He recently retired from the Arizona Department of Public Safety after 20 years of service. He was a major and an assistant chief of administration. He has been involved in the past seven years in the National Crime Information Center (NCIC), Project Search, and departmental programs involving technical areas such as criminal identification, communications, and computers. So at this time, I will turn the program over to Mr. Beddome.

C. J. Beddome:

I have a job with a fancy title, executive director, National Law Enforcement Telecommunications Systems. I sent some letters out recently to some of the governors discussing the program, talking about this state consortium that takes care of the police communications all over the country. One of the staffers of one of the governors said he thought it was some kind of a telephone company just going into business, and he thought he didn't need to have any of those kind of companies in his state, let's just stick with what we have down here, and we would call when we needed you. They have some of the heaviest traffic in the country. So I really believe that NLETS, which has really been around a long time now - police people have been talking to one another via teletype equipment since the '30s, and finally got organized to some extent right over in this part of the world, the east coast. The New England states were talking to one another long before the rest of the country was. In the very early '60s, the communications officers in the various state police organizations put together a kind of information organization and they called themselves law enforcement teletypes, hooked it all together, and the telephone company helped with the switching equipment, took care of the billing for them, prorated the sharing of the cost, etc. It is just like building any kind of a pipeline or system.

It didn't take long until it became undersize and load was greater than the system had capacity for. So it went to two or three upgradings over a period of time. The last time they said they really had to do something about it was in 1972. A decision made to upgrade again which was about the third or fourth upgrade, the system was about to break down again, running at full capacity the best it could do was about 13,000 messages a day. They agreed to do that and in the meantime, they commissioned the president, who was Tom Allen, a communications officer in the Maryland State Police, to contact LEAA and determine whether we qualify for federal money. The answer was, "Yes." So an agreement was finally reached. However, there were a few conditions we had to agree to. There always have to be conditions.

Several conditions were put forth and the group agreed to it. So LEAA provided a grant along with states also contributing to the system. There is, in fact, about a \$30,000 a month income from the states in support of the system. In the meantime, though, the LEAA in their wisdom (and I do believe that was a wise thing on their part) decided that they should commission Jet Propulsion Labs in Pasadena, California, to take a look at the communications needs of the criminal justice system for the United States in the future. To my knowledge, this is the first time anyone had taken a look at the future needs. That is an ongoing project at the moment.

The activities we have been involved in in getting ready for the upgrading of NLETS, which now is coming along satisfactorily, the going on line in our first real live operating mode on the 24th day of December last year. February 1 everybody was hooked up to the system in great fashion at that time. They had 17 in the states, 17 state communication centers that were computerized already in their communication system hooked up, and the rest of the states were hooked up. NLETS had passed from the era of a partyline system, if you will, with a very low-speed activity to a private dedicated wire from each one of the states coming in to the Department of Justice in the state police department in each one of the states with a capacity, February 1, more messages per hour than we were able to handle in a day on the old system. With a commitment on the part of the computer vendor who supplied the equipment to us, of course that was part of the contract specs to be able to double that capacity. So we are looking at 50 times the capacity tomorrow of yesterday's NLETS.

Now there are other groups around that are thinking about doing things in the interstate environment communications department that are talking to us and, of course, I think the fact that in the Senate and in the House, the

U. S. Congress recently introduced legislation addressing the very real problems of security and privacy in these kind of systems. This began to be somewhat of a concern to Congress and other responsible people in the country thinking about NCIC in the past when we started putting NCIC together. I was involved with the NCIC system from the very beginning.

In the early days of NCIC, we were looking at a thing - file, if you want to call it that - and we had less sensitivity at that time to the kind of records that were in NCIC than we are looking at today. Today, we are looking at automated criminal histories and those kind of things. So our great concern is now on the land of which we are a part that says we have to deal with some of what we are doing in the interstate environment a lot differently. Senator Ervin introduced a bill, S. 2963, that would regulate (and I mean it very sincerely in a legislative fashion as opposed to a rule-making operation) the activities of you gentlemen very readily.

Bill No. S. 2964 was introduced by the Department of Justice and it took a slightly different approach in the interstate exchange of sensitive data, personal data, federal history activity and that type thing in that the U. S. Department of Justice would be the one who would be setting the regulations and dictating the policies about how you would be involved in the business.

Colonel Dick Plants and I were invited down to Washington to testify before Congress on these bills. Dick was there because he was chairman of your executive committee for the division. I was there, I guess, because I had just recently taken the job February 1st as Director of NLETS. Congress has very real concern about NLETS, the NCIC and where it goes. In the other kind of interstate system, we might be exchanging things of a personal nature about the public and that included the ABA's interest in exchanging driver's license and vehicle information. The national driver registry, by the way - this is not available for law enforcement purposes. Its sole purpose is to help the motor vehicle administrators adequately determine and screen applicants for driver's license, to make sure they weren't under suspension or a bad risk based on activity in another state. I don't really know what is happening right now in Congress as a result of all the testimony and all the activity.

But I suggest to any one of you who has an interest in this kind of activity to, for your own benefit, secure a copy of these bills and make input to your Congressional delegate or send it to the proper committees serving in the Congress. I think we need to acknowledge that some of us have sort of a negative feeling about the computer in our own departments. The computer is here to stay, fellows. Unfortunately, it is like a curse and a blessing at the same time. They are expensive and require very competent personnel to run them. A lot of the trouble we have had in the country today, whether it be with the credit cards, the gas company billings, your own police system or the quality of service you get out of that system depends on the willingness to make a commitment to the system, to get the right kind of technical people to run it, to tell those guys what you want rather than having a technician tell you this is what you really should have, let me do this for you. You need to know what you want yourself. You need to tell them and you need to run the system.

NOTE: Remainder of presentation was not recorded.

(Recording resumed)

Question:

If I may, I would like to make a couple of observations in this area, primarily for two reasons: One, I think this whole issue of privacy, security and confidentiality is going to be one of the two or three top issues in the matter of public policy for the next couple of years.

Secondly, the association which I now represent has a definite interest in this for several reasons which I will touch on in a moment, but I did want to call it to the attention of the group that at the governors conference, I may have mentioned this yesterday, the Vice President of the United States in his address to the governors spent about 80% of his time of his speech addressed to this issue. He is now the chairman of the cabinet committee

in this area and is supposed to issue a report on these matters by the end of this month. I am assuming that because of his address to the governors that this is going to go to the governor with a recommendation. For this reason, you should be alert to make certain that somebody else, for example, one of the computer people themselves, don't get directly involved before you have a chance to provide your necessary input. But the second thing relates to what I interpret as a proposed rule making of LEAA. In the proposed rule making they talk not only about the criminal justice systems, but also other state systems with which they interface. That, for example, brings you to the motor vehicle agencies in your state with which you must interface if you are going to get driver data or vehicle data and if you want to get real prime vehicle data for your men out in the highways it's going to be very important to you. The LEAA rule making, for example, hinges on that system and I think you have some real problems, something that we have commented on but I don't know how much impact we have had on it. The other point I wanted to make was that I'm sure some of you are aware that there is now an RFP for an upgrade of a national driver register and in my judgment it is unfortunate that they have been operating almost in a vacuum as far as NCIC and NLETS are concerned. I should agree with you, Larry, I don't think there is going to be another parallel system but the question now is the National Guard register going to be upgraded and how is that going to interface with the other two systems? The point I wanted to make, Larry, here, is, as I understand it, NLETS is now developing a criteria and some coding systems whereby NLETS can interface with the motor vehicle agencies so that NLETS can provide the necessary data to the police agencies out on the street. Am I correct in that?

C. J. Beddome:

If you have an NLETS terminal in your office I can give you five states from where you can get a driver check, a vehicle check, or a driver's license check fast or faster than you can get out of NCIC.

Question:

Does that mean now that this interface that you are talking about is going to fall within the rule making of LEAA, and if so, how do you propose to handle it?

C. J. Beddome:

I don't know if I can answer the last question but I can say I'm very much aware of the first part of the question and was present at the NCIC advisory board where we were exposed to that set of rules at that time. I never could find the time to give oral testimony to either of the hearings. I supplied some input to Colonel Hegarty from Arizona when he testified in Washington on the first round of hearings and then I was in San Francisco early this month when the last go round was up here and just couldn't get loose. I was part of the program and was not able to get over there to testify but I have discussed them with several people. NLETS very definitely will qualify and will be under the rules and once LEAA adopts the rules and publishes them and says this is the way it is going to be, at that point in time all of us are going to be bound by them.

Question:

Now, my only point is that we should be alert to all the ramifications of what is happening here, particularly in your own state, or we may find ourselves in a similar predicament.

C. J. Beddome:

I do believe, Bill, that you are opening the door to further dissertation. I also believe that the fact that we are now interfaced with several state motor vehicle type departments directly allows direct access with any state with an INLETS terminal to access those files and there will be several more based on a little census I did on the system just recently. Before this year is over we may have as many as 20 states that have said to NLETS you may come and get what data you need. The trooper out on the road needs driver license information, or license plate identification data. You can get it from the NLETS and that is the way to go. But just as we had to work with NCIC, with the U.S. Attorney, and the states attorney's and directors of the state agencies, and the FBI on some sort of a written agreement. I do believe that is necessary. We are looking at the need to keep state data secret to at least criminal justice for law enforcement purposes. Now allow someone in an adjoining state who hasn't got any right to use his motor vehicle files information in a commercial sense going to his neighbor's state and coming to his own state and extracting driver's license information or motor vehicle

information for some non-government non-illegitimate purpose and I think that can happen. We have a lot of work ahead of us in the near future. If anybody else has something to say pertinent to the issue, I will still be around. I don't intend to leave until tomorrow.

The next gentleman on our program is Mr. Charles Work, who is the Deputy Administrator of the Law Enforcement Assistance Administration. Mr. Work was appointed Deputy Administrator of the Law Enforcement Assistance Administration on November 2, 1973. Before joining the LEAA, Mr. Work had been an Assistant United States Attorney for the District of Columbia. He became Deputy Chief of the Superior Court Division in 1971 and Chief of the Superior Court Division in 1971. Mr. Work was born June 21, 1940, in Glendale, California. He received his BA degree in 1962 from Western University; his JD degree from the University of Chicago Law School; and his LIM from the Georgetown University Law Center in 1966. He was admitted to the Utah and the District of Columbia Bar Associations in 1965, and during 1965 and 1966, he was a Criminal Lawyer in the Legal Entrance Program of Georgetown's Law Center. Mr. Work is married and has one child. The family resides in Washington, D. C.

Mr. Charles Work:

I would like to have a frank, candid discussion with you about some issues and I'm just going to place the hottest of those on the griddle to kind of see where we go. I'm going to start with communications because it is a fairly important issue, about the security practicing, and a discussion about the way LEAA views this problem. I must say that I am delighted to know that the community that is concerned about criminal justice communications and criminal justice systems is thinking about this issue as hard as this group appears to be, and I really want to underscore the importance of that. Before I came to LEAA, I built a system. I was a sub-grantee. I'm the first one of the three administrators to ever have been on the receiving end of LEAA funds and so I know what it is like to call up and say where is that money. I waited a year for grant funds trying to hold everybody together, the team together, while we were trying to work on this program. It is quite an experience to remember who in LEAA was responsive and who wasn't when you called up trying to find out where something was, or what was happening to something, or to get the answers. And this is aside, but

I will say this to you, the first thing I did when I walked into the door was set up a rule for grant applications at the national headquarters level and that rule is that if they are not acted on in 90 days they will be granted. So we have everybody hustling around. So they get all their grant applications denied or granted within 90 days so that we can give better administrative service.

The security privacy issue—I think both were discussed, but I want to add two other things. LEAA's position on this is quite simple. We have had a concern built into our statute since 1970. In 1970, Senator Kennedy succeeded in his amendments to our statute in requiring us to come up with security and privacy plans and security and privacy regulations for criminal justice systems. Prior to that, an organization that LEAA is very closely associated with, "Project Search," was instrumental in doing a good deal of work and many of you probably participated in Project Search. And so there is a history to these regulations that should not mean that they are unfamiliar to many persons in your walk of life because they were contained in the initial Project Search drafts. The statute that the Department of Justice proposed was very similar to the work in the National Advisory Commission on Standards and Goals on which I'm sure a number of you served. So there has been a developmental history and that development hasn't just come with this recent push in Congress but it started, as I said, back in 1970 with our particular amendments to our statute. Then in 1973, when we were re-inacted in August, the language was even stronger and more direct requiring LEAA to come forward with these regulations. On top of that, then, came the move in Congress to apply as much more broadly and make federal legislation on it and thus the Ervin Bill and the Administration Bill. It is in this form we hope that most of the work will be done. We are quite frankly, not eager to issue regulations to have them superceded by the acts of Congress, but we are moving on parallel fronts with the regulations in case this session of Congress does not get a security and privacy bill out because we interpret our stand as being quite clear that we must have some security and privacy regulations on the table by the end of this year. It would be easier for us at LEAA and we would certainly be taking less of the heat if Congress would take this burden off of our shoulders and pass the regulations. I am certain that there would be a security privacy bill this year. I think that the important thing for everyone to understand about our regulations is that we are honestly and genuinely seeking input and trying to make a straightforward and honest attempt to accomplish what we are concerned about at LEAA which is to make all the systems work and to keep all the systems working and to keep them serving law enforcement in the most efficient possible way, as well as to conform to the mandates of Congress. It is a tightrope and

it isn't easy to walk. We have asked Dick Plants to help us draft particular portions of the regulations that have to do with the start-up times and the start-up plans because we know that they are going to be tremendously difficult. As I indicated before, I built a system once, and I know what it is like to put together an automated information system. I have done it, I have sweated that blood, sweat, and tears over a number of years. I know it can't be done overnight, and I know you are well aware of the fact that this is going to be a sufficient burden on every single one of these systems. There's just no two ways about it. I'm eager to have you understand that we are going to be as reasonable in this start of time regulation as we possibly can. And we really want an input not just on the start-up regulation but we want input on all of this so that we can get and make everybody feel that at least they have been heard. I'm not saying that everybody will agree with the regulations as they come out, but we are doing a balancing act and I think everybody just has to understand that particular fact involved. It's an important process and it's not just an assignment that we are going to take casually or lightly. But please remember that we are not, in terms of personnel, a very big agency and we don't have a lot of people to sit down and put these things together overnight. We don't have enough people who can go out and talk to everyone. We have an automated system and actually draw their views out of them. We really have to rely on you to keep this discussion moving and that applies in Congress too. We don't have a big congressional lobbying activity. We feel very strongly that Congress has to hear the voices of the people who operate these systems more strongly than they have up until now. The Congress needs to get the input, people on the Ervin committee need to get the input from you, from the governors, from the congressmen about what impact this is going to have on your programs. So we urge you to service these issues, to talk about these issues, to talk about it with your congressmen because there may not be a bill this year but I can assure you that the temperament of Congress is to pass legislation like this. I don't think there is any question that we will have a bill by next year and very well may be this year. So the action is right there on the front line, and we need your help and assistance in getting the state and local viewpoint across. That is vital. LEAA considers itself in a large part a representative of that viewpoint, but we just cannot speak for all of you. We don't have the manpower; we don't have the knowledge. We need to have all of you talk to your governors or your congressmen and help us with the resolution of this problem.

I think I will turn now to a couple of other issues and talk about them and then if you would like I can come back in the question period to security and privacy. I know it is very much on your minds.

There has been a very substantial degree of misunderstanding about LEAA's so-called victimization study and I wanted to talk a little about that today. I have some copies of one of the reports from the victimization study here. I don't think that I have quite enough for everyone, but perhaps the conference could do a little Xeroxing for you all. This is the latest one on the five major cities and I know the five major cities do not apply to anyone of you in particular but it is the one of the five major cities that has raised the most attention so far. So I thought I would talk a little about it. First of all, let me start with this. It has been a view that victimization is an attack on the UCR's, attack on the police community, attack on the FBI by LEAA. Really, nothing could be further from the truth. This victimization study is a study that was recommended by the crime commission back in 1968 and it is basically a very large census about crime taken at the rate of 25,000 households and businesses a month throughout the country. We have been in 13 of the larger cities so far and have released the results of those studies in 13 of the larger cities. We will have a national victimization study released later on this year and there will be some more cities released even after that this year and this is now a regular annualized, serialized study conducted by the Bureau of Census with LEAA funds. It is monumental; it is going to be as we will be through the next five or 10 years. There is no question about it, it is going to be an important tool for all of us. It is going to, although it is not now, be another indication of whether or not crime in the country or in the particular cities that are being studied has gone up or down. The thing that has gotten lots of attention is the difference between the UCR's and the victimization study and quite naturally the headlines all over the country have been that non-reported crime exceeds report crime by a ratio of about 2 to 1. This has been really an unfortunate turn of events in many respects because the study is much more than just a difference between non-reported crime and reported crime. For instance, one thing that was just not noticed at all anywhere but it's really rather startling is that the victimization rate, the crime rate reported in the victimization studies in those 13 cities that we have studied individually so far puts New York City at the lowest of all of those cities and Detroit the highest. And Detroit's rate almost twice as bad, if you will, as New York City's, with cities like Portland even worse than New York City. A rather startling and amazing conclusion that nobody could have predicted or would have guessed, and low and behold there it hangs out for everybody to see. But what does the media pick up? The media picks up the relationship between the unreported crime and the reported crime. That's really not the most important thing in there at all. There were some things that were highlighted. The unreported rate in Philadelphia versus the reported rate ran 4 to 1, and the national average went about 2 to 1. Naturally, some conclusions were drawn, although LEAA did not draw those conclusions. Some conclusions were drawn by the media that there must have

been some fiddling around with the statistics in Philadelphia. Well the thing that is important here is that it is LEAA's view that both the UCR's and the victimization studies are going to be important tools for us to measure our progress by in years to come. We now have more than one thing that will tell us whether or not crime is going up or down. LEAA's victimization study is not a perfect tool. There are lots of problems with it, but it has been conducted according to the best and the latest scientific sampling techniques and, as you all know, since 1948 scientific sampling techniques have gotten better and better and it is being conducted by competent, effective, efficient statisticians. There are a hundred statisticians working on this and it is not a passing thing. It's not something that is going to be gone tomorrow; it's going to be with us; it's going to be a continual survey that is going to be issued every year on a quarterly basis. We will be looking for the current victimization reports just as we now look for the current UCR reports, so it will be with us for awhile. I also hasten to add that this is not something that was just sprung upon the world by LEAA. This was begun three years ago and it was begun and was tested in two cities, Dayton and San Jose, with the strong and effective cooperation of the police departments there. They wanted to develop a methodology for comparing reported crime with unreported crime. They started with Dayton and San Jose's actual reports. It was reviewed and studied by the LEAA statistical committee. It was not something that has all of a sudden jumped out of the woodwork. So we offer this not for what it is worth in the sense that we are concerned about its force, we feel that it is going to be a very important contribution. In fact, it is my own view that it is one of the most important things that LEAA has ever done. But we offer it so that it will not be a misunderstanding, and I discuss it here so it will not be a misunderstanding about what it was intended to accomplish and what it is intended to be. It is not an answer by itself; it is not the only tool that tells us what crime rates are. It is not intended to be gospel; it is intended to be another tool that we can all refer to to see how well or how poorly we are doing. It is a very detailed study. There is a tremendous amount of data in it, and this data is going to be massaged over a period of time and we are going to get economic data relationships. It is a study of whether or not, how much or whereabouts in the neighborhood and in the kinds of neighborhoods that crime is more prevalent—things that we are just not able to get in the ordinary course of a UCR system. There are a great number of detail on things like relationships between the victim and the person that perpetrated the crime. We are going to get in studies that we have released on things

like degrees of seriousness and we already know and have said for instance that many crimes are unreported because the person that was the victim didn't consider the crime important enough to report and we all know that happens. But there was also a percentage that said they were concerned that they didn't report it because they did not think that it would be considered serious enough by the police, by the courts, by the criminal justice system, or they didn't feel that they had evidence enough. So there is built in here a certain degree of criticism by the citizens of our communities and we have talked about that discussing the victimization reports and so from that, LEAA has been accused of being anti the police, anti the criminal justice system because we are concluding that we should do more and we should make it very clear that we plead guilty when we are saying and what Don Santarelli is saying around the country that we should do more. That is absolutely correct. We are saying it and we are continuing to say it. We are not doing enough. The war on crime has not been won and we consider our role to be one of prime to keep the system moving onward and upward so that we can continue and work even harder to reduce crime. That doesn't mean that we are unappreciative of the enormous problems that everybody on the front line faces. We come from the front line, and we are proud of that. But we have set out and are determined that we are going to try to achieve the goals in helping to reduce crime in the country. That means, as far as we are concerned, each one of us taking a larger chunk and a more important chunk of this particular war. I'm impressed by the fact that as I become better acquainted with the program that really the key is this is a notion of partnership that we are trying to foster everywhere we go, and that we are trying to get everyone to adopt as readily and as quickly as possible. We are faced and have been faced for many years with a criminal justice system everywhere that is fragmented both on the horizontal plane between federal, local, and state on the vertical plane, courts, corrections, and so forth. And surely one of our problems in the bottom line has got to be true coordination, and working together. We are going to do our best in LEAA to improve that partnership mode, and so it grieves us that people feel that LEAA or the administrator is anti-police for some reason or that there is, in words of Frank Looney, a negative attitude on the part of LEAA currently. Nothing could be further from the truth. We do not have a negative attitude and if you can characterize our urging to do better as negative, we at least have a negative attitude about everybody else in addition to those out on the front line as well as the courts, the corrections, and everybody else shares if that is a negative attitude.

When we arrived at LEAA we found some confusion in the agency about what we were about. There were on one side of the agency the people who thought the goal of LEAA was just to improve the criminal justice system, and there was in another camp a few far-sighted people who felt that our mission was to try to reduce crime. Well, we have come out strongly on the side of the people who feel that our mission was to get out there and help the states, and we say it very clearly in our rural statement and in partnership of the states to help reduce crime and delinquency in American and that is really quite significant in terms for instance of being anti-police. I don't have to tell you in terms of reducing crime and in the terms of preventing crime the police have to take that front line control. It means that things like new patrol techniques are much more important than whether or not a trial is speedy or not. The fact that we have centered on reducing crime rather than just improving the criminal justice system means a good deal in terms of our attitude toward where our priority should be. We don't want to come away from consideration of those priorities without having everyone understand that we are looking for input into those priorities. We want to get reaction; we want to be responsive to the people who are, in fact, our clients. It means nothing to urge front-line criminal justice to be more responsive to the citizens, to the witnesses and to the victims, if we are not ourselves in LEAA more responsive to the people that we are supposed to serve. And that is the front-line criminal justice agencies, the people on the front line who are fighting the crime.

Finally, I would like to say a few words about some of the things we were talking about in respect to the future work at LEAA. This will be made more apparent as we move on toward our new fiscal year. This will be the first fiscal year that Don Santarelli and I have been aboard and, that we have really had a chance to influence some priorities or directions. One of the real frustrations of taking over a new program is that you walk in and find it all programmed for yourself, and low and behold there is nothing that you can get hold of for awhile. And so, I would like to map out where we hope to go. One of the things that we are concerned about is that at this stage in the life of LEAA with substantial amount of funding behind us, 2.5 million dollars, that we really don't know enough about what we have done already. No longer can one person be a repository of all the information on what we have funded, where and whether or not the impression of that program is a good one or whether it is a bad one, or if it failed. We have a strong feeling that we are doing a good deal of re-inventing

the wheel from spot to spot all over the country. We are trying to make an important effort in the year to come to find out what has worked and what hasn't worked and to try to get that information out to those of you on the front lines who are concerned about it and to try to put at your fingertips more information about what has failed and what has been a success so you can look for that. The code work for that is evaluation. I don't think that is a great word but that is the way it is. But we want to get out to everyone what we think has been a success and what we think has been a failure and what you think has been a success and what has been a failure. We don't consider ourselves a final arbitrary of success and failure but we are eager to get some notions about success and failure propagated and out to those of you on the front line. We are also eager to improve the planning process at the state and local level being LEAA has in its past history not been critical enough of some of the performances of the state. But I hasten to add that cannot be done by LEAA dictating what is a proper planning process. We will not do that. LEAA wants to work in partnership with the states to try to improve the planning process. We see something happening now that is really interesting. We see the number of states really stepping out ahead of the game, the number of states really putting together a comprehensive, intelligent plan—a plan that makes sense, a plan that has input—and really doing a better job than LEAA itself has ever done in deciding what to do with the monies and deciding how to allocate them on a rational priority basis. On the other hand, this widening gulf has on the tail end of it a number of states that are doing nothing at all, just barely creeping along. And so, as the dynamics of the program progress, we find a widening gap between the performance of some of the states, and we are going to try to see what we can do about two things. One is the states that are really doing a bang-up job, trying to free them from some of the federal red tape, trying because we really feel that our mission in life is to develop state and local capacity, but at the same time, take those states that are really lagging behind and coax them along a little, trying to get them to come up with something. And so we feel that we are in an interesting stage in the life of the program and that we want to capitalize on those states and localities that are really doing well, give them their head and at the same time urge some of the states and localities who are not doing too well to come right along with us. Finally there will be in the year to come really four national initiatives that you will be hearing us talk about and will be funded with our national monies. One is an attempt to induce all of us to do more with this witness and victim which I have already mentioned. Another is an attempt to get

each one of the states and some localities, if they will, to address the National Advisory Commission Standards and Goals. We regard that as highly important program, but I hasten to add that we are not interested, and I say it all over the country, in mandating those particular standards and goals. We merely want them addressed as part of the planning process. Standards and goals we regard as a sufficient planning tool and we hope everyone will take them on, consider them, and work with them. They are nothing if they just gather dust on the shelves; we are trying not to let them gather dust on the shelves. Another national initiative will be to try to get LEAA nationally more directly into the work of juvenile delinquency. Fifty percent of the crimes in the country are committed by persons under the age of 18. LEAA at the national level has not done very much in respect to juvenile delinquency, and we are going to attempt to do more. Our last major initiative is involved with trying to urge the courts to take and come in and participate more in this program. We do not believe that anybody should have a mandatory of this program, and we will never endorse anyone having a mandatory share of this program. But we are eager to see each and every part of the segment come together because the beauty of this program is sitting down around the table of all the parties and actually developing a plan and working together toward that plan. We are eager to see that all the parties are there. If all the parties are not there, the spirit of our legislation is not being achieved. So, we have these four major ideas that you will be using in discretionary funds and leverage to achieve. And we will be moving forward in this very important partnership mode trying to get everyone to help with this problem, trying to get everyone to help in a partnership. We hope with this kind of attitude that we will begin or we will continue to make some progress.

Question:

Chuck, as you are aware, and I think Dick Plants addressed himself to this matter yesterday. Our executive committee of the State and Provincial Division has served more or less as an advisory committee on a quarterly basis with the members of LEAA. Is this going to continue?

Mr. Charles Work:

I have that grant under consideration. A number of the groups that are related to IACP have enjoyed an advisory committee status with LEAA over a

period of time. We have not accorded that status to any other organizations that have board of directors, executive committees, and so forth. And so we have a problem because other people are wanting that same kind of service, but whether or not we are going to quote it across the board or we are not going to quote it at all. And I am frank so say that we haven't decided whether we are going to go across the board or whether we are not going to go at all. But that is the issue and that's what we are trying to face up to and we haven't yet concluded that this is what we will do. So that is where we are on it; it is a tough issue for us because I know it has been going on for some time and no matter which way we go, it represents a change of course but that is one of the issues that has been presented and that is what we are trying to resolve.

Question:

These other organizations that you say are making similar applications. Are they state organizations?

Mr. Charles Work:

They are national and state organizations and so if we do it for one, the question is whether we do it for another. We do it for IACP, do we do it for the national district attorney's association? That is the problem.

Question:

Would we get the opportunity to plead our case?

Mr. Charles Work:

Oh, you are pleading your case by facing it right now. There are people on the phone about it all the time.

Question:

I know in the past we found it very helpful and LEAA found it very helpful because representing a state you have an individual representing a state and a national organization.

Mr. Charles Work:

Really, we are quite sensitive about it right now; we have been accused of  
(Tape changed)

Question:

We give you the opportunity to show that you are not.

Mr. Charles Work:

And in order to give us that opportunity we have to give everybody else the opportunity, it strikes us that it is not fair to do it for the one office.

Question:

That was not our purpose to give you the opportunity that you are not anti-police. It's the idea that we were able to give you some real good input on some of the abuses of the program on a national level and we felt we were pretty successful in that in the past few years.

Mr. Charles Work:

We are not eager to stop the input. It is just that we have to have a uniform policy. So we are battling out what the uniform policy is going to be, one way or the other.

Question:

You don't sound very encouraging.

Mr. Charles Work:

That's right. Any other questions?

Question:

In reviewing the proposed rule making and registry of LEAA in privacy and security control, it was my interpretation that not only did a state agency or a local agency who had received LEAA funds fall within the proposal, but also that any other agency would interface with any segment of the criminal justice system within that state also fell within that proposed rule making and I wanted to find out if, in fact, my interpretation was correct.

Mr. Charles Work:

There is no question that it has great ramification, but a short statement in answer to your question. I don't know. I don't profess to be an expert with respect to the legislation or the regulations but I understand your

question. And I just don't know what the regulations presently say about the interface. The Ervin bill as a matter of principle is a very broad bill. It covers the watergate jurisdiction so I could only venture a guess to you that the framers of the Ervin bill certainly intend that any interface be covered. I just don't know what either the intent or the regulations say about it at this stage. If anybody knows what the Justice Department bill says about the interface we could probably figure out what the regulations say. I might add that my interpretation of the Justice Department bill was that if it did fall within the proposed bill that it probably is within the rule making and I know we would certainly appreciate a definitive answer on that and I think every state would.

Mr. Charles Work:

There has to be a definitive answer. There is no question about that.

Question:

This not only hinges on NLETS but also on the NCIC and on the proposed upgrading of the national drivers register and now we are talking about three almost different parallel systems.

Mr. Charles Work:

I really agree with what Larry said about this. I think we have been involved in criminal justice systems and are victims of the sloppy practices and procedures of the credit bureaus and organizations that just haven't cared under what circumstances they gather data or put it out for credit and I think that is unfortunate. But I think a great deal of progress has been made in recent years in respect to accuracy and completeness, criminal justice records and protection of the criminal justice records. I think we are coming along just fine but we have been the victims of a public opinion shift that has, in fact, not been our making. But the main thing behind that has been the impedance of the credit bureaus and the finance offices and so forth. I think quite frankly that's going to be the police aid, a very important purpose of the vice president and I think he will or his committee will shy away from doing much more with the criminal justice world and will concentrate on the symbol side of the picture. Now certainly health, welfare, education, records are just as hot an issue and I think there has been many more abuses in those records than there have been in the criminal justice records.

Question:

You said that when you came to LEAA there were two schools of thought on what your mission was. My question is are you extending the treatment of the criminal justice systems or on reducing crime?

Mr. Charles Work:

Well, certainly proving the criminal justice system becomes a sub-goal, but it isn't so much of a matter in distinguishing between them as it is a matter of what that tells you about priorities that you are going to set among things like projects that you find and in the world of not having enough money to fund everything that comes down the pipe. You have to have some goal or some way of establishing what your priorities are going to be and the priorities that we have decided we are going to set are the ones on the things on the projects that point more directly to crime reduction than they do just to make the system better. You can make the system more efficient as I indicated by speeding up trials. Does that really defer crime; I'm not sure. You can say that it might have an ultimate effect someday of deferring crime and maybe if your system is five years behind that means that your courts have nothing to defer crime. You all know that better than most of us the importance of getting a commission out there in front of all the people who are pushing to take it, is that they are able to have a little bit better focus on which piece of paper should be pushed through it.

Question:

Chuck, I know you are on a tight schedule and would like some answers concerning specific proposals that have been submitted to you that are of great interest to this body. One has to do with this series of regional meetings that are now ongoing, effective last Monday. Has that grant been approved?

Mr. Charles Work:

No, it hasn't been approved in our Congress.

Question:

The physical requirements study which was submitted to you finally in January has been disapproved according to a letter that we received from

Mr. Alprin saying that the methodology was a problem. I think that what we are interested in primarily is, do you plan to conduct such a study? If not IACP and using another methodology, do you plan to get into that area at all?

Mr. Charles Work:

I didn't know until this morning that it has been disapproved. I'm just not cognizant of what the institute has been thinking about with respect to where it is going to go next. It obviously is a very important issue and it seems to me that it merits some importance and all I can say to you is that by the time you have your next regional meeting, I will have an answer for you.

Question:

Another proposal that was submitted, not by the Division of State and Provincial Police but the proposal itself, resulted from a resolution passed by this body two years ago. It has to do with minority recruitment. There is some confusion in my mind as to what action has been taken on this. I received a letter from Herb Brise that said we are not able to support the proposal. Colonel Plants' staff captain called me on Monday and said that they had a letter from you saying we will be happy to consider it as soon as we receive it. I wonder if we are talking about the same proposal. I think the title in both the letters were the same.

Mr. Charles Work:

I heard this morning that the Philadelphia district attorney pulled the ultimate trick on us. He submitted a grant to the institute and submitted a grant to the other side of the agency and it had been moved through the processes of both sides and he almost got two grants. That is one of the frustrations that we have. I'm just not familiar at all with the application but I can write it down and give you a call. Give me the title again.

Question:

It was just entitled "Minority Recruitment Proposal" and was submitted by the Professional Standards Division and was resubmitted this year as a result of action taken by the Division of State and Provincial Police Executive Committee at their March meeting in St. Louis. One other proposal

we feel pretty good about as a result of our relationship to your staff people, but we don't have any firm commitment on is our comparative data report which is published every two years, hopefully in time for the legislative session which the majority begin during the odd year. We would like to finish that by December if that is possible so that the 47 legislative bodies that meet can have copies.

Mr. Charles Work:

Ok, I will give you a report. I have a couple of other handouts here. Unfortunately, I wasn't able to cram enough into my briefcase to leave you enough copies, but maybe it can be Xeroxed here for the conference. Here is a talk Don gave to a California Police Officers Association addressing a couple of the issues that I touched upon here this morning. It's helpful sometimes to get it straight from the horse's mouth, so there it is. And I have some copies of this major cities victimization report and you are welcome to the copies that are here.

Question:

In reference to your last remark and I think it is more relevant to this group, you talked about the four or five big cities, and the 13 cities. There is a shift in population now from the urban to the suburban area and the apparent greater increase in crime there than in the urban areas. I'm talking now about the cities. Is your victimization study also going to cover what we call the suburban areas, those outside the urban area?

Mr. Charles Work:

Well, it does now and there is going to be a whole national survey that will cover urban, rural, everything that is presently going on and will be released later on this year and it will break it down by urban, rural, even type of dwelling, so the study does have that focus at the present time. Now when the UCR's came out they played up the shift to the suburban and especially the shift to the rural crime area. There is no question that there is an increase there. Nevertheless, there is a kind of plateau that we are talking about, that we hope we are going to stay on, a kind of shoulder effect is what we think is happening. While you still see some increases and you see some variations among urban, rural, and suburban, then, generally the trend is that you are kind of on the shoulder. It is still

going up but it is not going up at the same rate that it was going up in the late 60's. I also hasten to say that none of this victimization report is longitudinal yet over time—it does not say that during a particular period of time that crime has either gone up or down, it just picks a particular period of time as a starting time. This is all the starting data we are getting in. Later on down the plank about the first of next year will be the time we will get the first comparative data about whether crime during a particular year in a particular place actually went up or went down. So the going up and down is yet to come out of victimization but it will not be too long.

Question:

Let me comment on something you said concerning the negative attitude of LEAA. I'm not the general chairman of the Division of State and Provincial Police. He was unable to be with us today, but I met with the executive committee of the Division of State and Provincial Police and I think I can say for them that attitude is not their attitude. Their attitude is a constructive one and feels strongly about the need for LEAA and for this division to be involved in the programs of LEAA.

Mr. Charles Work:

I appreciate that and I don't want to emphasize this too strongly. I think that in any program in which there is active participation by all of the participants there is bound to be some disagreement from time to time and that tells the troubles. We have been troubled by a couple of recent correspondence that Frank Looney has sent out. But we remain and continue to have an open and friendly discussion with him on a very professional basis on a variety of topics. We are not worried about having a disagreement over an issue or two. We think that is part of making this system work. It is a minor thing in terms of our overall view of these kind of problems and affairs and we are not going to blow it out of proportion. And I can say in the last month or two it has even improved, so I don't want to dwell on that excessively other than to make you aware that we are aware of it. We are willing to surface it and talk about it.

Question:

I don't want you to misunderstand and think that we agree with everything that you do, but we will come and tell you about it when we don't.

Mr. Charles Work:

I understand. I am surprised that I didn't raise more questions or heckles today because we don't regard ourselves as being in the business to make everybody happy, but on the other hand, we are not out to make enemies that we don't have to make, and what we are eager to do is proceed on kind of a partnership thing, not junior or senior partners but a genuine full-fledged partnership. We don't want to spend a lot of time fighting among ourselves. We are eager to just get on the job.

Question:

This morning the first thing on the agenda is a report of the Workshop Meeting and at this time I will call again on Lieutenant Gribben.

Lieutenant Gribben:

The Personnel Workshop convened yesterday morning at 9:45 in this room. We had sixteen persons present, not including our people on the program. On the program were Mr. Haney, after he had finished talking to the executive session; Dr. Andrew Crosby from IACP; and also Mr. Robinson, when he finished his presentation on the other side. We conducted the workshop session in a very informal style and it was more of a discussion.

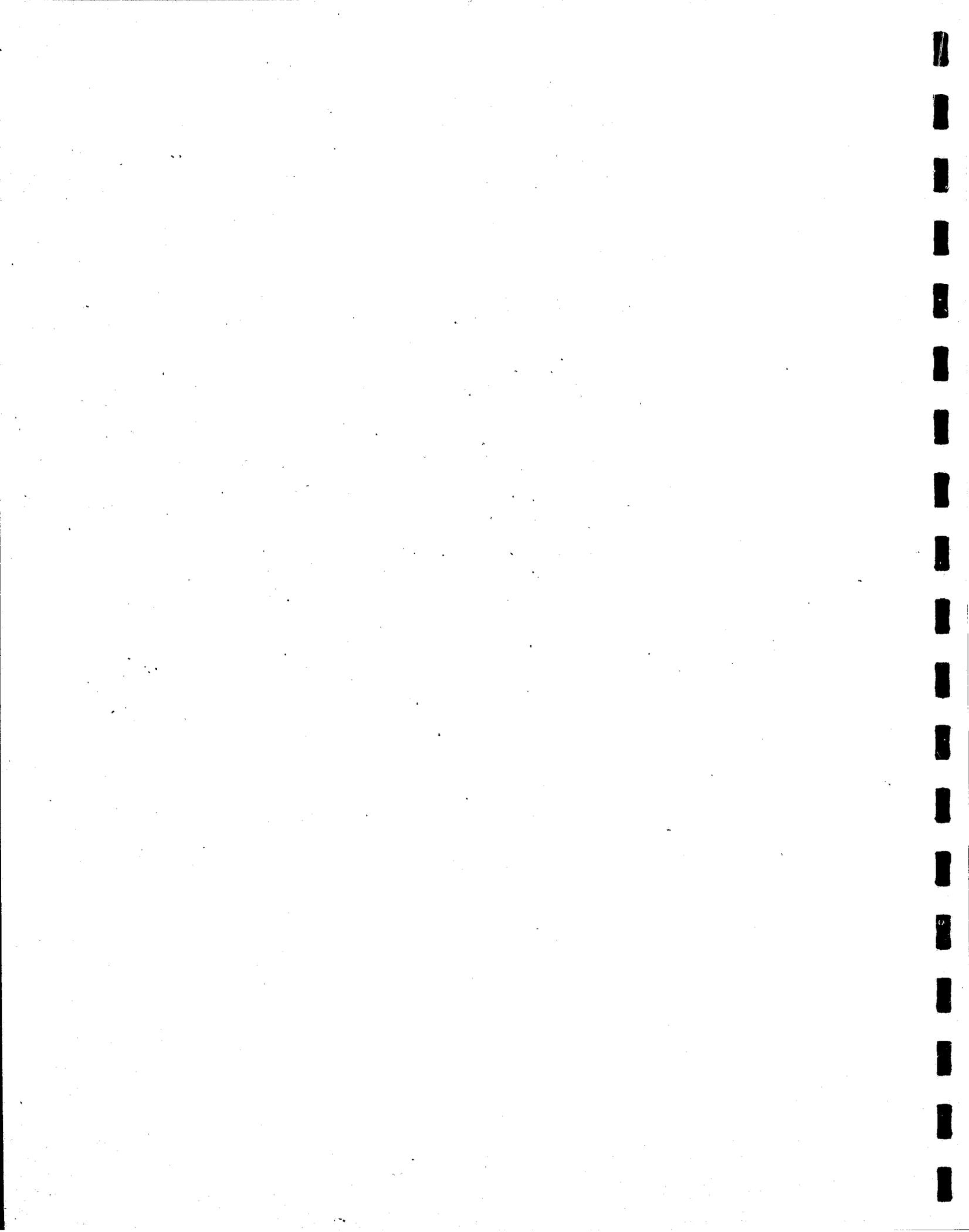
For the first part of the workshop, we talked about test validation and preselection standards. We went into it pretty deep. We discussed the problems that various states and various police agencies around the country are running into with test validation. We discussed police standards and we all agreed that we do have a problem right now and the problem is going to get worse before it gets better. Dr. Crosby told the group that the IACP is trying to come up with a uniform test and selection standard for all state police and highway patrol agencies and they are working well on the way of doing this. And we all agreed to try to adopt some uniformity in standards as it goes to testing and selection because some of the standards that we use in my state and some of the standards some of these other states use, if they were ever taken to court would not last five minutes before a federal judge. Rather than get it thrown out of court and lose everything you have, we should all get together and work on uniformity. Uniformity is very important. The federal government

is coming after us on some of our personnel standards that deal to specific height, minimum height and even maximum height, weight, some of these other problems where we can screen a person out. If we ever got into court, we would get thrown out fast. So we are recommending to the superintendents that they instruct their personnel people to contact IACP staff in an attempt to correlate their personnel standards with the personnel standards from other states so that we can all be a little bit more uniform. We discussed the problems that several of the states have run into, especially Pennsylvania and Maryland because of their court actions and this is something that is going to blossom. As the major from Pennsylvania pointed out, they got theirs and one of these days we are going to get ours, because it is moving across the country. For an administrator to say they are not going to get me and it won't happen in my state is not right because it will happen and when it does happen it happens so fast that there is nothing that you can do about it. Mr. Haney also pointed out from experience on his own that when one of these agencies comes after you and starts asking you questions about your personnel standards and about your minority recruiting and about your affirmative action programs, while you are working on that interrogatory you should be building a defense. You answer two of those questions and then you start building a defense for yourself on those two questions that you have answered and then you go a little bit more. Some of these interrogatories can be really frustrating if you have ever gotten one thrown at you. We had one thrown at us from the NAACP in federal court and ours was 167 pages long and they asked us some of the most ridiculous questions that I've ever seen. They give you a limited amount of time but you can go back into court or to the agency that hit you with it and ask for more time and more and more time and this is what he recommended you do if you get hit with a questionnaire or an interrogatory that you stall and keep stalling as long as you can. While you are stalling and while you are working on that interrogatory you better start working on a defense. Build yourself a defense while you are building their case because if you don't and you turn that interrogatory over to them, then they will turn around and take you to court and you won't be ready. They have all your information and you have no defense for it, so this is very important.

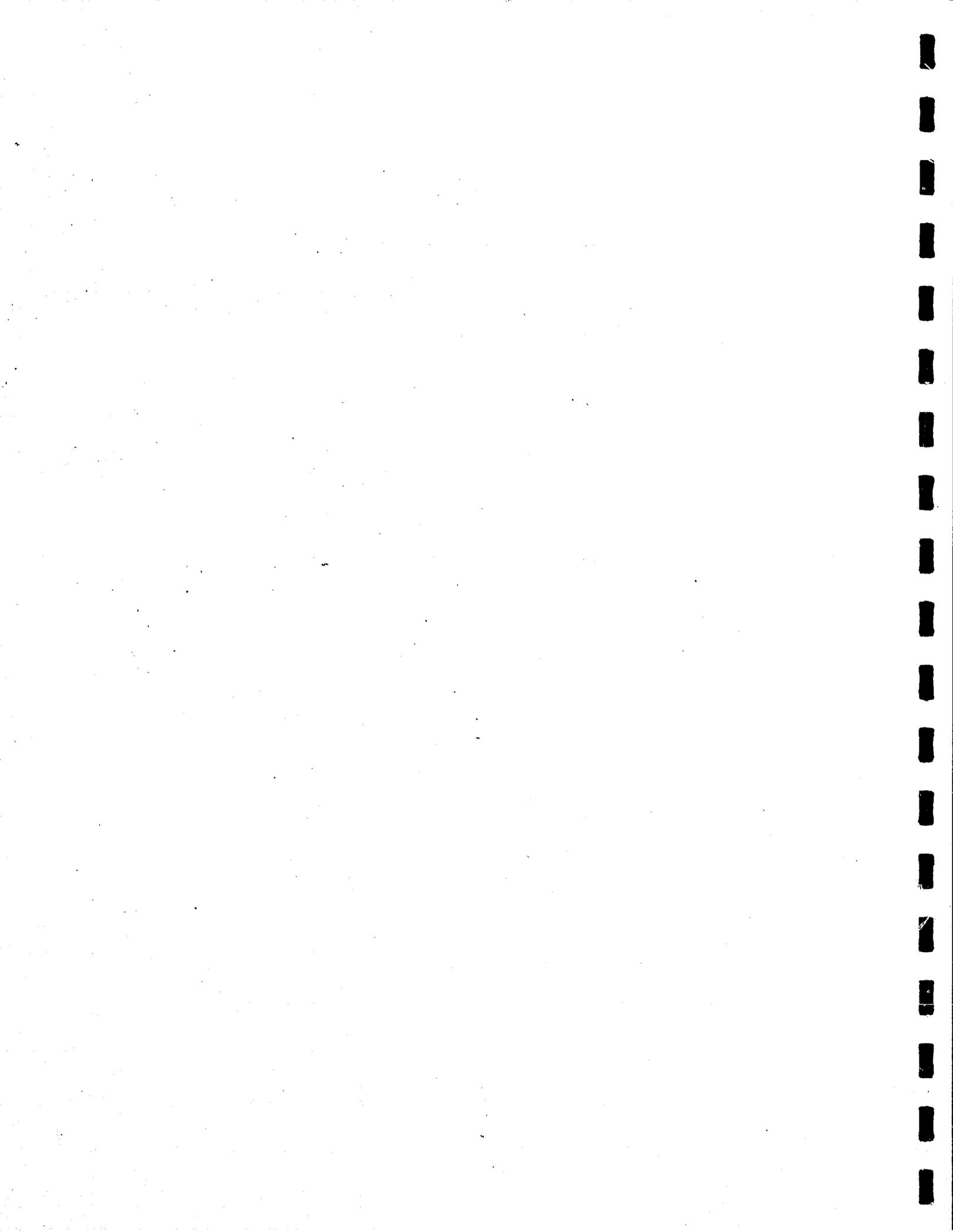
Mr. Robinson on the program discussed primarily not only problems in minority recruiting but also the problems the black officer will run into in a white community, some of the things that should be taken into consideration with a black officer.

We had a very productive workshop. I feel that I would have liked to have had more time, but other than the recommendation the administrator from the various jurisdictions try to promote uniformity and that they be careful about these interrogatives if they come in to you. That was the only recommendation we had to make.

The next thing on the program, of course, is the business meeting.



BUSINESS MEETING  
1974



DIVISION OF STATE AND PROVINCIAL POLICE  
INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

REGIONAL CONFERENCE REPORT  
1974

COLONEL J. R. PLANTS, GENERAL CHAIRMAN

NORMAN DARWICK, DIRECTOR



DIVISION OF STATE AND PROVINCIAL POLICE

REGIONAL CONFERENCES, 1974

DIRECTOR'S REPORT

1. Financial Report (Copy attached).
2. Review of current proposals submitted to the Law Enforcement Assistance Administration on behalf of the Division of State and Provincial Police.
  - A. Comparative Data Report
    - 1) Printed every two years. 1974 issue should be received by you in December.
  - B. Regional Conference Proposal
    - 1) Support travel for two executives from each state.
  - C. Police Physical Standards Project - Research Concept Paper
    - 1) Letter from LEAA
  - D. Minority Recruitment Proposal - Rejected last year and submitted again this year at the direction of the Executive Committee - Rejected again.
3. Central Index
  - Current status and conflict with State Police Planning Officers Association.
4. Clearinghouse on Information Concerning Police Women Established at the IACP - Police Foundation grant and administered by the Public Affairs Division of the IACP.

5. Management Career Development Program
  
6. Division Programs - In consideration of the objectives of the Division of State and Provincial Police, the following is a review of Division activities:
  - a. Conducted 4 regional planning sessions to develop agendas for the four executive conferences for state police administrators.
  
  - b. Coordinated activities and provided liaison for meetings of the Executive Committee of the Division.
  
  - c. Continue to publish the Division newsletter entitled, Memoranda.
  
  - d. Coordinated activities and provided liaison to IACP's Auto Theft Committee.
  
  - e. On a continuing basis, providing the necessary developmental work and coordination for the two (2) annual State and Provincial meetings and the Executive Committee meeting to be held in conjunction with the Annual Conference in Washington, D. C.
  
  - f. Developed and submitted proposal to the National Highway Traffic Safety Administration to support development of a Model Police Traffic Services Procedural Manual.
  
  - g. Developed and submitted proposals to LEAA for funding of the State and Provincial Regional Conferences and the 1974 Comparative Data Report.
  
  - h. Maintain a continuing liaison with key officials of the National Highway Traffic Safety Administration and the Law Enforcement Assistance Administration.

- i. Provided liaison to the Motor Vehicle Manufacturers Association in areas concerning vehicle security and the Vehicle Theft Technique Reporting System.
  
- j. Participated in a proposed rulemaking hearing sponsored by NHTSA regarding the exemption of police vehicles from the requirements of the inter-lock system standard and the impact absorbing bumper system standards.

The General Chairman testified before the Ervin sub-committee concerning proposed legislation relative to the privacy and security of information systems.

**CONTINUED**

**1 OF 4**

GENERAL CHAIRMAN'S REPORT  
DIVISION OF STATE AND PROVINCIAL POLICE  
REGIONAL CONFERENCES  
1974

- I. Opening Statement
  
- II. Recognition of Regional Chairman
  - A. North Central Region Superintendent Robert DeBard  
Indiana State Police
  
  - B. Southern Region Commissioner Claude Armour  
Tennessee Department of Public Safety
  
  - C. Mountain Pacific Region Colonel James L. Lambert  
Nevada Highway Patrol
  
  - D. And our current host here in the North Atlantic Region,  
Colonel Robert Bonar of the West Virginia State Police.

These men are serving as hosts for each of our regional conferences this year and are taking their valuable time from their busy schedules to assist the Division in its continuing programs.

III. Recognition of State and Provincial General Officers and Members of the Executive Committee.

As most of you know, Colonel John R. Plants retired from active police service on July 5, 1974.

A. General Officers:

General Chairman, Colonel Wayne Keith, Colorado State Patrol

First Vice-Chairman, Temporarily vacant

Second Vice-Chairman, Colonel Walter E. Stone, Rhode Island State Police

Secretary-Treasurer, Major Eugene E. Olaff, New Jersey State Police

Advisor, Bernard R. Caldwell, San Diego, California

Sergeant-at-Arms, Major Adolph M. Pastore, Hollywood, Florida

B. Executive Committee:

Immediate Past General Chairman, Colonel Wilson E. Speir,  
Texas Department of Public Safety

Colonel David B. Kelly, New Jersey State Police (Retired, July 1, 1974)

Colonel James J. Hegarty, Arizona Department of Public Safety

Colonel Frank Thompson, South Carolina Highway Patrol

Chief Will Bachofner, Washington State Patrol

Commissioner Walter Pudinski, California Highway Patrol

Commissioner Harold H. Graham, Ontario Provincial Police and

the FBI Representative to the Executive Committee, William L. Reed,

Federal Bureau of Investigation.

I felt it important to mention each of these men individually because of the important developments that have occurred in the past year which each of these men have contributed greatly.

Since our last regional meeting in 1973, there have been some personnel changes. I would like to recognize each of the new administrators this time. Florida Department of Law Enforcement - William A. Troelstrup; Georgia Department of Public Safety - Colonel J. Herman Cofer; North Carolina - Commissioner Boyd Miller and Colonel E. W. Jones; Oklahoma - Commissioner Roger Webb and Lieutenant Colonel Jerry Matheson.

#### IV. Executive Committee Activities

As many of you know, the Executive Committee of the Division of State and Provincial Police has in prior years served in an advisory capacity to the Law Enforcement Assistance Administration. This has provided us with an opportunity to meet with LEAA officials and to discuss those issues which are important to the state law enforcement agencies as well as the Law Enforcement Assistance Administration.

As you know in 1973 there was a change of administrators at LEAA. The previous administrator, Jerris Leonard, resigned his position and Mr. Donald Santarelli was appointed as Administrator of LEAA during the early part of 1973. Mr. Santarelli met with the members of the Division of State and Provincial Police during our Annual Conference in San Antonio, Texas, in September of 1973. At that time he expressed an interest in maintaining the advisory capacity of the State and Provincial Division Executive Committee. As a result of that expression, a letter was forwarded to Mr. Santarelli through Mr. Clarence Coster's office requesting that a series of meetings with LEAA officials and the State and Provincial Committee meeting be established for 1974. This letter was transmitted in December of 1973 and unfortunately there has not been any response to date.

On March 6, 1974, our Executive Committee met in St. Louis, Missouri. We discussed the issue of our relationship with LEAA officials and the consensus of the Executive Committee was that we should continue to pursue future meetings with the Administrator of LEAA.

Several other important issues were discussed during our meeting, but rather than go into detail as to each of these issues let me just touch on the highlights.

We reviewed the Police Physical Standards Concept Paper which was submitted to LEAA by the IACP Staff. This was a project that Mr. Santarelli encouraged us to submit to LEAA during our meeting in San Antonio last year. After review by the Executive Committee the members elected to approve the concept, however, a motion was made that when a final proposal is submitted that the S & P Executive Committee be allowed to review and endorse that proposal prior to submission to LEAA. In the interim the Executive Committee passed a resolution supporting the IACP in their efforts to obtain funding from LEAA for the Police Physical Standards Project and further supporting actual field testing in selected police agencies of our Nation, as necessary to validate the findings of the Police Physical Standards Project and further requested that the various mandates by individual directing authorities to indiscriminately hire people for police work without hiring standards being first validated be stayed until appropriate studies have been completed and cogent hiring standards are produced from the results of such studies and field tests.

The next issue for discussion was the National Law Enforcement Telecommunications System. The members reviewed new rules being promulgated by the Federal government and current hearings relating to criminal justice information systems which include proposals that the Federal government assumes control of NLETS. The members of the Executive Committee,

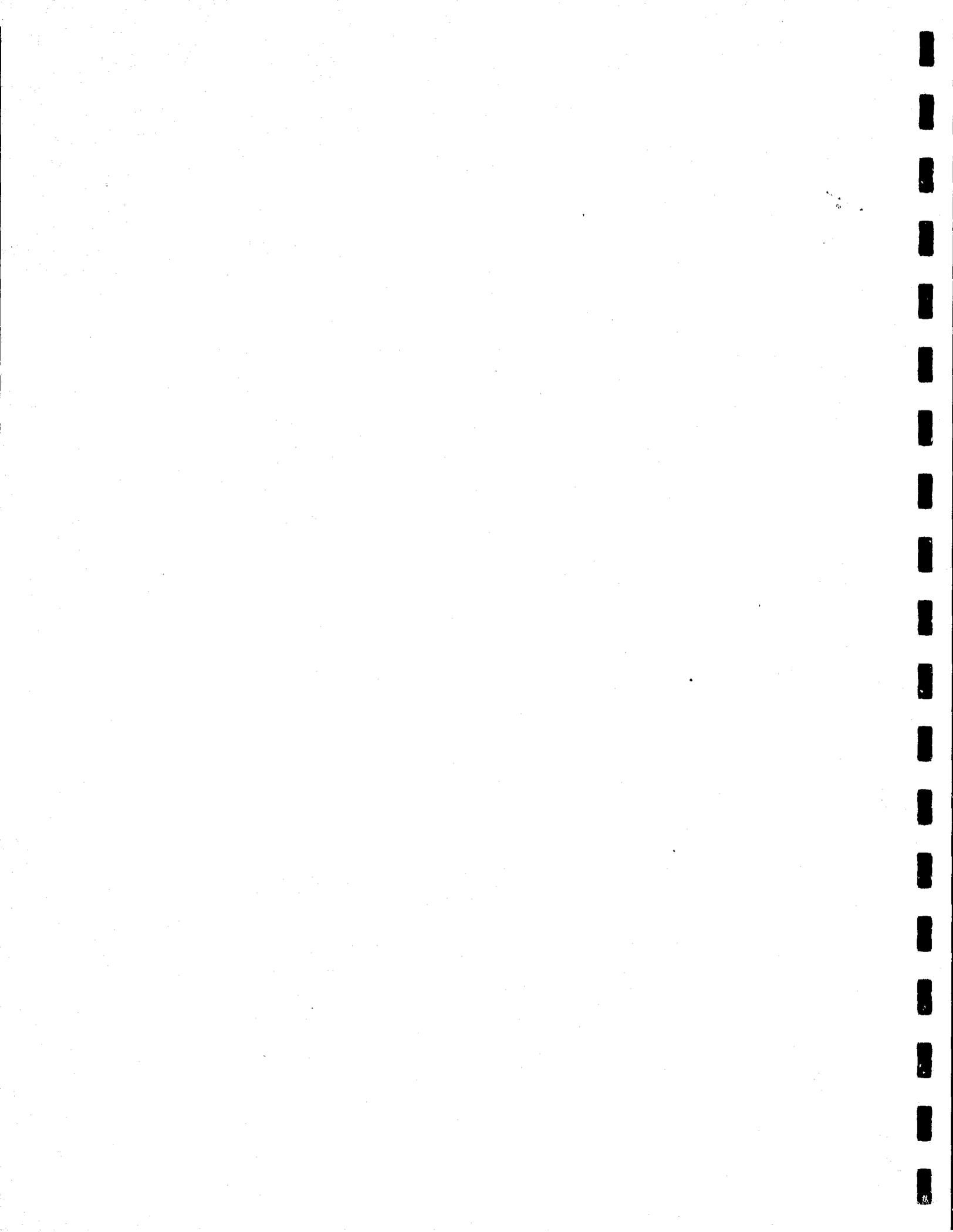
through official action and unanimous vote, strongly opposed current proposals which suggests that the Federal Bureau of Investigation or any other Federal agency take control of the National LETS System. In addition the members supported the concept that the Federal Bureau of Investigation maintain control and operation of the computerized criminal history system including message switching capability as it relates to that system. These issues of opposition and support were transmitted to the Attorney General, to the Administrator of LEAA, House and Senate Judiciary Committees, and to the President and Vice President of the United States.

Our discussions then centered around some existing policies of IACP, specifically the present system of voting and election of officers. After considerable discussion, the members supported any concept which will support a more equitable representation of IACP membership in the general activities of the Association. As a result a motion was made and passed unanimously requesting Mr. Quinn Tamm to direct IACP staff to develop a system to provide broader representation of IACP in the voting process and specifically requested Colonel John Plants to direct the feelings of the State and Provincial Executive Committee to Mr. Quinn Tamm.

In addition to these issues the Committee was informed by State and Provincial Staff as to the status of the Comparative Data Report for 1974, the Regional Conferences for 1974 and the on-going Management Career Development Program.

I will not go into further detail in discussing these issues for I have asked our Division Director to fill you in on the status of each of these programs.

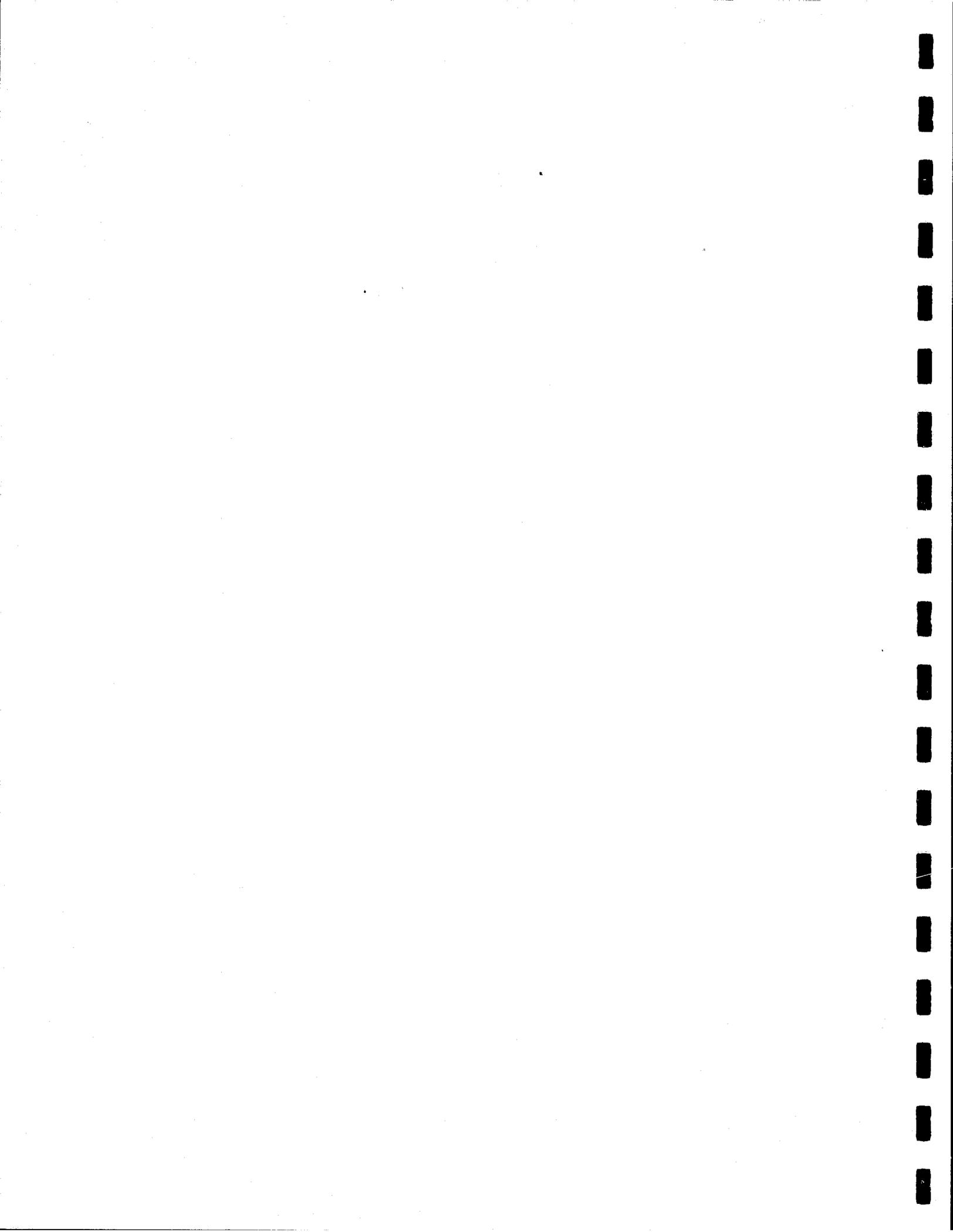
In concluding the meeting of the Executive Committee, the members discussed the Annual Meeting of the Division of State and Provincial Police to be held concurrently with IACP's Annual Conference in Washington, D. C., in September of 1974. We currently expect to conduct a meeting of the S&P Executive Committee on Saturday morning, September 21 which is the first day of the conference week. The Annual Meeting of the Division of State and Provincial Police will be conducted in the afternoon of that Saturday, September 21, 1974, and during the morning of Tuesday, September 24, 1974.



APPENDIX B

TRANSCRIPTION OF

MOUNTAIN PACIFIC REGIONAL CONFERENCE PROCEEDINGS



NEVADA HIGHWAY PATROL

Hosting

MOUNTAIN PACIFIC REGIONAL CONFERENCE

Division of

STATE AND PROVINCIAL POLICE

INTERNATIONAL ASSOCIATION

OF

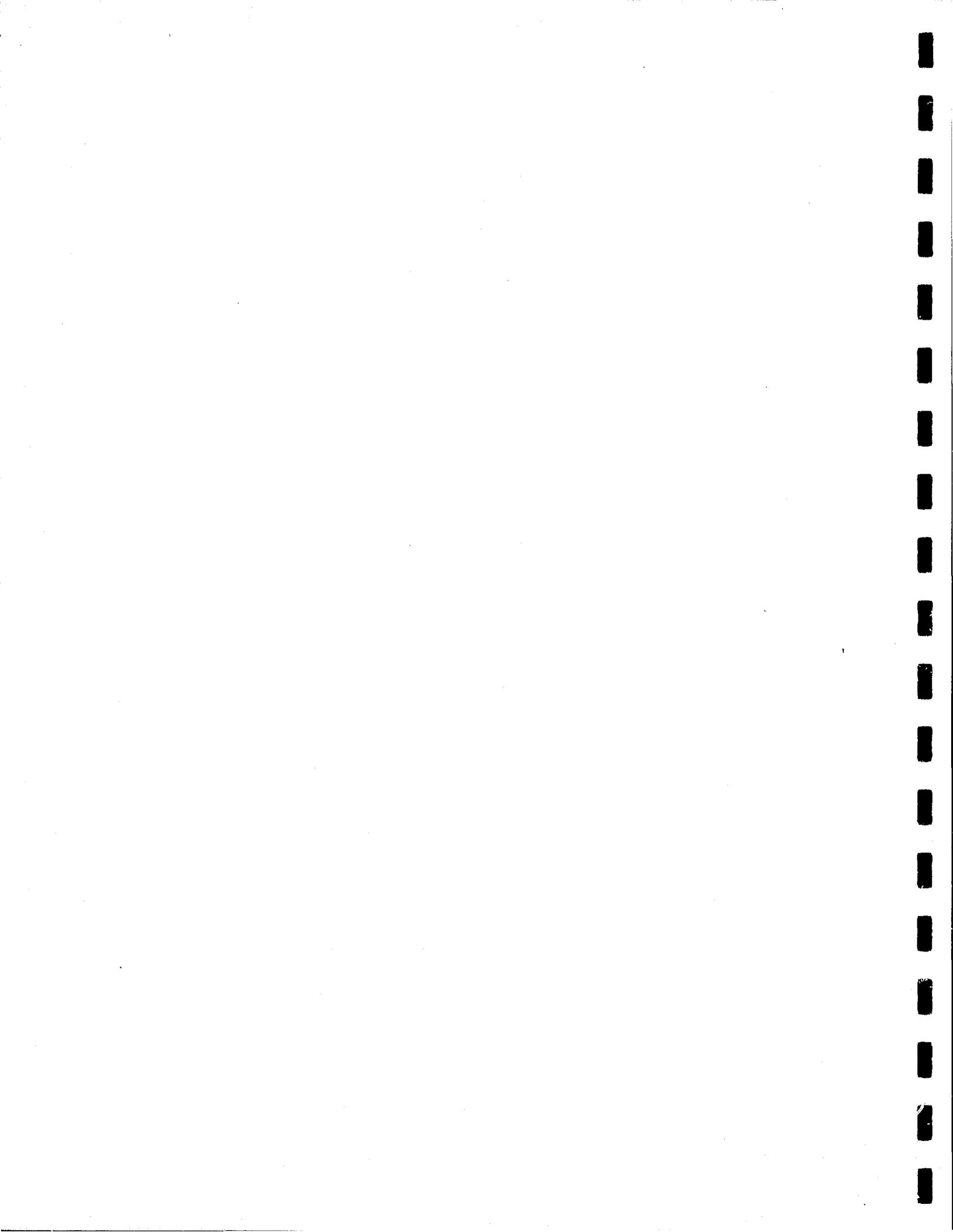
CHIEFS OF POLICE

June 3 - 6, 1974

Chairman

Colonel James L. Lambert  
Chief

Nevada Highway Patrol



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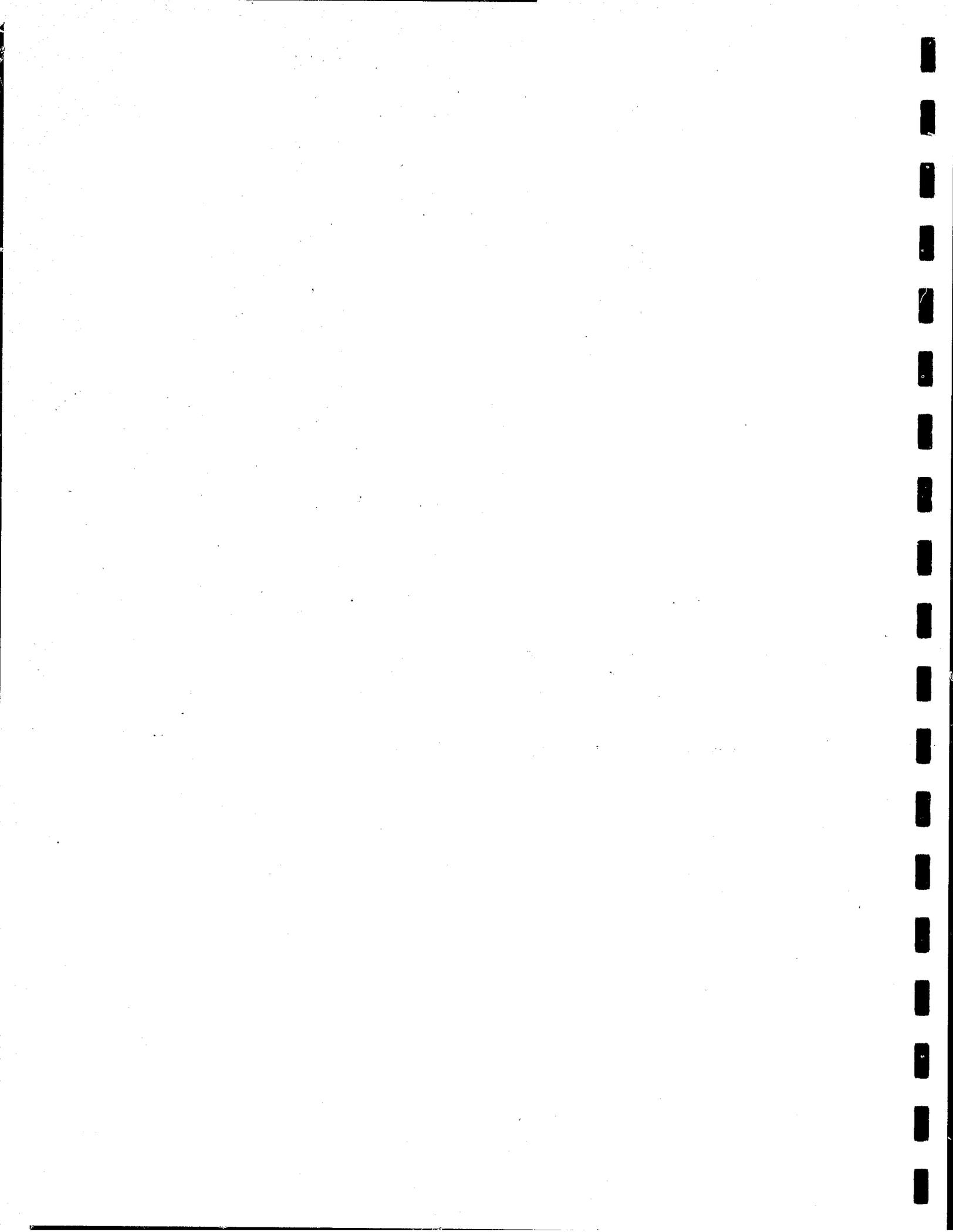
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BUSINESS MEETING 103



## WELCOME AND INTRODUCTION

Presented by

Chief James Lambert  
Chairman, Mountain Pacific Region

I would like to officially welcome all the participants to the Mountain Pacific Regional meeting of the State and Provincial Division, IACP. We hope that we have developed a program that will be interesting and educational and it's going to be a very pleasant and enjoyable meeting for you.

To start the morning off, giving a welcome from the State of Nevada, it's a great pleasure to be able to introduce a friend of law enforcement. He has been in the legal system for many years as judge in the district court level and now is the Chief Justice of the Nevada State Supreme Court. Without the courts, particularly our Supreme Courts, our lives become more difficult as law enforcement officers. So it's with great pleasure this morning that I introduce Gordon R. Thompson, Chief Justice.

Gordon R. Thompson: Thank you, Colonel Lambert. When Jim called last week to ask that I welcome you on behalf of the State, I was deeply honored. I say that sincerely. For all of my life I have had a deep respect for people in your position. You are an awesome group. I don't know what will be the content of your meeting for the next three days. I suppose that it will deal quite heavily with professionalism in your profession.

I thought that I might just for no more than one minute or two, tell you of the three items that concern me as a judge. The first, of course, is the lack of respect for law enforcement by so many of our citizens. I simply cannot understand that. Most, I believe, appreciate the deep responsibilities that you people have and your staffs. They want you to do everything for them and yet, for some reason or another, they do not pay you respect or give you the assistance and tools with which to perform your tasks. Secondly, I am always concerned about the lack of a desire, I suppose, on the part of the legislative branch of government to properly fund law enforcement. In recent years we have had some federal assistance but still, as with the schools, the two most essential aspects of our government education and law enforcement—never seem to get the fair share that they should get from the funding branch of government. I, for one, will do anything to be of assistance to the local situation in getting the money for law enforcement. And thirdly, I'm concerned as a judge, and have been for several years, over what seems to me to be the apparent effort on the

part of the media to somehow work a cleavage between police and the courts. That hurts me deeply. I believe that we are in the same business; that we have the same purposes in mind; and that our function is always to work together in an effort to accomplish those aims. Yet people who are on the outside, not in the police field, do not appreciate what has to be done. People who are not in the court field and do not really appreciate the judicial responsibility try to get the two factions warring with one another. And I hope to God that will never be accomplished. We can't allow that to happen. During your meeting here I wish that you have a happy and rewarding time.

I would like to call on Chief Wayne Keith of the Colorado State Patrol, First Vice-Chairman of the Division of State and Provincial Police. Colonel.

Colonel Wayne Keith: Thank you Colonel Lambert. I am standing in for Colonel John Plants this morning. He is the man in charge of the State and Provincial Division and found that he couldn't be here this morning. As you know, he is the Superintendent of the Michigan State Police. In looking through our very great and well-developed schedule that Colonel Lambert has provided for the next two and one-half days, and speaking on behalf of Colonel Plants, I think that he would encourage us all to indulge ourselves in the interesting and informative schedule that prevails. I found that I was sitting in on two counts here—one in behalf of Colonel Plants and one as Chairman of the Resolutions Committee. When we were putting the Committee together for resolutions we had Bob McKay from Montana who could not attend and has sent his regrets and also the newly appointed Colonel Helm from Utah. And in their stead I would hope that Jim Hegarty is going to assist me in this project—the Resolutions Committee—and I would hope that perhaps Colonel Clark Hand from Idaho could sit in on that Committee, and Fred Wickam from Wyoming could help Colonel Hegarty and me.

We will meet and have a business meeting Thursday and I encourage all of you to attend. There are many matters of interest going on around the country that involve the State and Provincial Division and I think the resolutions should be productive of this group. We would like to have your attendance at that meeting Thursday morning.

I look forward to this great occasion.

We have another distinguished gentleman among us—he has hosted many of the IACP functions and has honored us by coming out here to give us some welcoming remarks from the national level of the International Association of Chiefs of Police. At this time, it is a great pleasure to introduce Chief Rocky Pomerance, Miami Beach, Florida.

Chief Pomerance: Good morning, gentlemen. Thank you, Colonel. I appreciate your comments about there being so many folks in attendance here. We come from a resort community as well, and I find that occasionally the police chief is called upon to greet conventions and at times a convention of 2,000 to 3,000 people. I am personally grateful and I appreciate the invitation—to thank each of you for inviting us to attend.

I spoke to Deputy Commissioner Frank Looney yesterday morning before I left and he asked me to extend his warmest welcome to you and to apologize for his not being here. Both President Looney and I deeply appreciate your invitation to us to attend and we wish you well in your conference.

I am sure that many of you are not aware of the fact that Don Santarelli resigned as the Head of LEAA today. As a result, Mr. Paul Haynes will be on the program of this conference. We must all give recognition to LEAA for funding this series of Regional Conferences, the two-week Career Development Program, and the State and Provincial Comparative Data Report.

I hope you all have a wonderful, productive conference. Good luck to all of you and again our best wishes from IACP. Thank you for inviting us.

Now, I would like to go ahead with the first program speaker, Mr. Charles F. Livingston, who is the Director of the Office of Driver and Pedestrian programs since May 15, 1974. He was Director of the Alcohol Countermeasures program from April 1972 to May, 1974; Director of the Office of State and Community Comprehensive Programs from December 1970 until April 1972, with NHTSA since 1967. Before that, Mr. Livingston was employed by the Department of Interior and the Department of the Army. Under graduate and graduate—University of West Virginia and prior to that, served in the Marine Corps. It is with great pleasure that we introduce our first speaker, Mr. Charles F. Livingston.

Mr. Charles F. Livingston: Good morning. It is a pleasure and honor to be with you today. First let me say that I didn't come here to make a speech about traffic safety or about the particular role that the enforcement element plays in all traffic safety programs. Rather, I came here for three important reasons. The first one is that some officials of IACP impressed Dr. Gregory with the support which we and NHTSA have given in the past and should continue in the future, with this particular State and Provincial Division. Dr. Gregory had the pleasure of going to the meeting in Charleston, W. Va., and unfortunately, but I guess fortunately as the point may be, he couldn't make this meeting—he's attending a meeting in Europe. So, Thursday morning I got the word and I am here and glad to be with you. Secondly, some of you have known me in the past and have heard what

I've had to say about the Police Role in the Alcohol Countermeasures Program. We just now went through a reorganization at NHTSA. I'm Director of the Officer Driver and Pedestrian Programs which encompasses all of the enforcement programs which we had in NHTSA. I know there are a lot of questions and issues which you would like to ask me about NHTSA's policies. I would like to give you that chance in an open forum later to give me a chance to at least try to handle some of the questions and issues you want to raise.

I mentioned that we just went through a reorganization in NHTSA, particularly in traffic safety programs which is the prime interest in relationships which you had with that particular agency. Prior to May 15, we had three principal offices in traffic safety programs—one was the Office of State and Community Comprehensive Programs which was principally responsible for handling the Section 402 programs in coordination with our regional office and with the governors' representatives who coordinate the highway safety. The other was the Office of Standards Development and Implementation—the principal area for all the 18 traffic safety program standards that NHTSA was responsible for, including the one that is concerned with police traffic services, as well as accident investigation. And then we have the Office of Alcohol Countermeasures, which is a special action office concerned with the coordination of the national effort in which many of you are involved.

Jim Gregory, who was appointed our new administrator last August, has been reviewing the organization in terms of some of the things he would like to see achieved in coordination with much of the input which he has received from associations such as this, as well as other state and local officials. He has some key points, I think, that he wanted to accomplish in the reorganization. I would like to go over a couple of those as I see them and as he has structured them within the organization. He wanted to concentrate more resources on, more rigorous evaluation of programs and the budget, developing useful guidelines and descriptions as to what works and what does not work, and on programs rather than standards per se. And most importantly, he wanted to provide more program oriented assistance to states and communities and the officials. The new organizational structure in traffic safety programs now looks something like three offices—the titles have been changed. There is now an Office of State Vehicle Programs—where before there was no such office; there is the Office of Driver and Pedestrian Programs—which I have the honor of directing at this time; there is the Office of State Program Assistance. The Office of Driver and Pedestrian Programs, as I indicated, is currently responsible for all enforcement programs. I can talk about what the boxes

look like and what the titles are. You and I know that the philosophy of individuals in the boxes is a lot more important than the titles or what is in the job description.

Yesterday morning, as I tried to organize myself as to what I would say, I recalled a speech I made a year and a half ago at the National Safety Council in Chicago. I asked my secretary to pull it out and as I recall, it was a good speech. The title was the Police Role in the Alcohol Countermeasures Program. I would like to quote a few paragraphs from that speech, if I may. I have constantly stated and I did again yesterday at the General Session, that effective community programs to reduce the carnage caused by abusive drinking drivers must have a total commitment of all professionals and official personnel in order to significantly impact this complex problem. I went on to state that police, judges, lawyers, educators, doctors, and social workers must all work together. That is something that I honestly believe. Yet, I must also state that a central ingredient to any alcohol safety project is effective traffic law enforcement. It is a key which allows the rest of us to operate. As we see it, the police role in the Alcohol Countermeasures Program is too full. First, to provide thorough accident investigation, good reliable, accurate information on the conditions and circumstances which existed at the time of the crash and those which contributed to the crash. And secondly, to detect and apprehend those individuals driving while under the influence through a selective traffic enforcement program. In the classic management sense, these roles equate to problem identification and program implementation. In essence, those same statements or same philosophies with regard to that one particular program problem which we are addressing applies to all philosophies, and the philosophy that we would like to work with you on implementing across the board in police traffic services and law enforcement as it relates to traffic safety. It is the key which allows the rest of the system to work.

At this point let me say also that we need better data and more rigorous evaluation of the application enforcement. We need it for manpower justification. As the judge said earlier, one of his problems is the support that legislatures do or do not give to enforcement agencies for manpower requirements. The public needs it so that they can relate to your effectiveness. I think most importantly, we need it to document the impact that effectively implied enforcement has on the bottom line traffic safety in reductions in deaths and injuries. When we don't have good data collection analysis, we subject ourselves to unnecessary criticism which does

much harm and no good. I am specifically referring to a recent Insurance Institute for Highway Safety report item which dealt with the Michigan FARE report. If you have seen it you know we don't need that sort of publicity and I can tell you that I would like to work with you in the future in data collection and analysis to be sure that none of us get into the position where we undercut the role of effectively deployed enforcement.

Before I get to the position of opening this up to a general discussion, there is one last point that I would like to make and it is about the national situation we are in right now. We are experiencing an approximate 25 percent reduction in traffic deaths. This is a good result of the energy crisis—the fact we moved to a 55 mile per hour speed limit as well as reducing the amount of driving. I think it would be interesting from a national and state standpoint, as well as all of our standpoints to see exactly what this situation will look like with another year under our belt with a 55 miles per hour speed limit. You and I know that gasoline supplies are becoming more available and that driving is increasing. It started to increase in the middle of March and in April it was pretty much back up again. In April, we still had a 22.9 percent reduction in traffic fatalities. Exactly what the proportion of reduced mileage is or reduced driving and the reduced speed limit, we don't know. We all owe it to ourselves to take a close look in terms of what it can buy for the savings of lives. I would like to encourage your support to take a long, hard look at what maintenance at that speed limit does for about another year. I would like to throw this open for a discussion in terms of the roles that we and you can play together in traffic safety enforcement programs.

Mr. Norman Darwick: Chuck, I am not ready to accept the statement that the energy crisis is solely responsible for the reduction in fatalities and I am surprised you aren't taking some credit for national programs that have been implemented and have been effective. When Dr. Gregory came to Charleston two weeks ago, we asked him to consider establishing a mechanism whereby the Executive Committee, which is the governing body of the Division of State and Provincial Police might meet with him or members of his decision-making staff on a regular basis. Sometimes we feel that we have to fight to be involved in your program. And national priorities are often established without consultation with those people who are responsible for implementing programs in their own states. The state-level agencies have great impact on local agencies, not necessarily the larger, more sophisticated municipal agencies, but the smaller agencies are dependent in large part on support from the state level agencies. And we think they have been neglected.

Mr. Livingston: I couldn't agree with you more. That is one of the things in the new role that I am in right now, Norm. I want to, if you will, get back into the mainstream of having meetings with the national groups, such as yours, to overcome some of these problems which we had in the past in terms of communication. We would like for you to urge Dr. Gregory to give that consideration. He assured us that he would. He will, and I can guarantee you that—not only at his level but at all of the policy-making levels. We've got to get out and we've got to do some fieldwork which hasn't been done in the past couple of years. It hasn't been the way it should have been.

Question from floor: Chuck, you mentioned three items in your major changes. They were more evaluation, stricter guidelines, and programs rather than standards. Can we translate this to mean that we are going to have more active money programs on the street and can we look to a little more state input as to how these programs are going to be developed, particularly as they relate to 403 type things that we deal with - yes. We have had much experience with the federal programs telling us what we were going to accomplish; exactly how we were going to do it; and what records we need to survey before we start a program. Many of the states feel that this is not quite in the proper sequence—if you are going to demand a product, you have to allow some flexibility in the state operation.

Mr. Livingston: In the coming fiscal year 1975, I think we have approximately two and one-half million dollars for enforcement programs, demonstration type programs. One of the things that we want to do is to draft a statement of work which would accomplish data requirements and analysis and then get with your group for comment to see if this type of thing is applicable; if it's realistic or unrealistic.

Jim Hegarty mentioned equipment. On December 10, 1973, at the urging of the Division of State and Provincial Police, a proposed hearing was conducted by the National Highway Traffic Safety Administration concerning Standards 208 and 215 relative to occupant restraints and impact absorbing bumpers. At the hearing, Al Cooper from the California Highway Patrol, made a comprehensive presentation concerning the problems of law enforcement and the use of the current occupant restraints and the impact absorbing bumpers. Jess Collard from the National Bureau of Standards made a presentation; DeAngelo, from the Fleet Administrators Association group expressed his views; and the Motor Vehicle Manufacturers also expressed their views. To date, we still don't have an answer. On April 11, I wrote Dr. Gregory asking him for an answer. We got a response within a week or 10 days from one of the

legal people on your staff saying to date a decision has not been made. Many fleet administrators are awaiting that decision in order to purchase their new vehicles and/or determine what kind of modifications they are going to make in the vehicles—do they have to accept the equipment then—they are going to modify the equipment but they need an answer.

Question from floor: Now that your agency has been reorganized, can we expect that we are going to get guidance and assistance with this type of activity from the federal government rather than a strict adherence to the Highway Safety standards and an imposition of monetary penalties?

Mr. Livingston: All I can say is what Jim Gregory has said repeatedly and he has had an opportunity to address groups such as yourself or the Governors' representatives. If you have a better alternative, come in and tell me about it. And that's the position that obviously in this point in time I have to take. Yes, I think we are really concentrating on programs but right now the position of the Administrator is that there were certain requirements placed upon the comprehensive plans from the States Highway Safety Programs and at this point in time, until such time as the state comes in with an alternative package regarding those particular standard elements, he's maintaining the position which the administration had taken previously.

Question from floor: I take it then what you are saying is that the standards as they are now, will not change. I thought I understood you to say that there won't be emphasis on the standards but will be on the programs. But are you saying now that there will be emphasis on the program but at the same time the standards will not be changed like, for instance, vehicle inspection?

Mr. Livingston: There is not going to be a wholesale change of the standards as was initially proposed. That's why I say Dr. Gregory's position has been if you have a better idea, come in and tell me about it. We can get an idea and we can talk and talk, but nobody ever listens. I know for a fact that some states already have had some problems with particular elements of the standards as conditioned in our comprehensive plan. They have come in with alternative programs with regard to those standard elements and I know that Dr. Gregory's position has been firm.

Yes, I realize that vehicle inspection is a big issue. I think that there is no question that the data show that there are causative factors for defective vehicles in crashes. Now what the exact percentage may be in certain instances, goes from 6 up to 17 or 18 percent, depending on how you're looking at it. There are provisions for alternative programs for the states.

And I think it still goes back to the position which the administration has had for many years—getting the unsafe cars off the road in the most effective way.

Question from floor: Chuck, I think there's some confusion concerning the role of the office of the regional administrator. The comments made earlier and the problem related by Major Powell cause me to believe that that's been a problem. Last year in June, all the governors' representatives were invited to Washington to discuss national programs. Representatives from national organizations were invited, but none of the regional people were there at the meeting. That was on June 15, and Jim Wilson presided over the meeting. The governors' representatives were brought in at the request of Jim Wilson and even there I heard some discussion that was conflicting in terms of the actual role of the regional people. Maybe you could expound on that.

Mr. Livingston: Let me tell you what my view is of the regional people, and I think this is the role that Jim Gregory seems to feel. I think if you want to put it into the context of a commercial enterprise, traffic safety programs in Washington is the product development office, and the regional offices are the regional sales offices. In other words, they are the direct interface with the state organizations and with the governors' representatives; as we are in a position to more fully provide them with better guidelines and better documentation as to what has worked in various parts of the country. Their work with the governors' representatives and the state agencies is representative of an enforcement agency in implementing programs of that sort.

Colonel Lambert: I wish to offer you the appreciation of our members for the support that we've gotten from you. I'd like the administrators in this room to understand that we consider you a long-time friend. We certainly appreciate your coming here today and taking the heat as you have.

Colonel James J. Hegarty: First of all, gentlemen, I'd like to call your attention to the fact that the panel on contemporary personnel issues was originally scheduled for this afternoon, but due to the change in programs that was announced to you this morning, we decided to proceed with at least part of the panel's presentation this morning. And it's not really going to be a panel this morning because unfortunately, we have only one member of the panel here at the moment because the other two have not arrived yet. I understand they're being picked up at the airport about this time. So, when I introduce the first member of the panel, when he's through speaking, I intend restricting the questions to his specific remarks and then ask that you hold your general questions until this afternoon. I

don't think it would be fair to our speaker to ask him to respond to areas that are not his responsibility, and for which we do have adequate representation. This afternoon we will be joined by Mr. Pottinger, who is an Assistant Attorney General, civil rights division, and by Gary Siniscalco, who is the regional counsel for EEOC in San Francisco. And, in talking about contemporary personnel issues, I am reminded of an article I read, very recently in fact, on the sports page of a newspaper in Arizona. It's a syndicated column and the sportswriter was writing about Little League. He was specifically making comments about the Little League in the Los Angeles metropolitan area. In an extensive essay, he pointed out that little boys don't like to play with little girls at certain ages. It's only after they get more mature that they take notice of the opposite sex. In fact, there may be a certain abhorrence when your mother tells you when you're 10, "Take your sister with you when you go out to play ball this afternoon." There may be, in fact, something in the developmental process which would indicate that our civil rights still carry that fault. At that particular point in time, he took on the Los Angeles county attorney and his staff of 100 plus attorneys, questioning whether or not they had anything better to do with their time than to get involved in a controversy involving whether or not little girls should be allowed to play Little League baseball. Now this is a rather lengthy essay, well-written, and perhaps, as a father who has been involved in Little League many years with my sons and recognizing that I only have one daughter, I rather took sympathy with his article, feeling that perhaps we carry this whole civil rights concept a little too far. Now the reason I mention it to you by way of introduction is that I'm a little bit afraid that in the police community today we're looking at the various aspects of the civil rights legislation as if it were Little League baseball, something that we have done that way for a long period of time and we don't see the justification of change. We're not looking at the legalistic requirement which may be involved. We may be starting out from a negative viewpoint, and having started from that viewpoint then write the essay to justify the conclusion at which we have already arrived. I would hope that you will approach this panel and the members thereof, and also the entire subject matter area, with regard to the implications and the applications of the civil rights law as it impacts on the law enforcement community.

With that introduction, I would like to present the first member of our panel who has a varied and interesting background. Mr. Taylor is a member of the International Association of Official Human Rights Agencies, comprised of over 500 state, local, national and international agencies involved in the civil rights field. He has been an IEAA national project director for civil rights. He has served in a department of

corrections for an extended period of time, and has other extensive educational backgrounds. He started his present assignment in April of this year and has a contract to serve as a Technical Assistant to the Law Enforcement Assistance Administration. Providing the assistance so that they might comply with Sub-part E of the law. I would like at this time to introduce Mr. Louis W. Taylor. Mr. Taylor?

Mr. Taylor: Thank you very much. I would agree that back in the mid-60's, coming from civil rights agencies and having the privilege and pleasure of speaking to police chiefs would have been a rarity. I think we've made a turnaround and feel that unless we work together, we're all going to have some serious problems. On behalf of Herb Rice, who is the Director of Civil Rights Compliance for the Justice Department, I'd like to say we certainly appreciate the invitation—your inviting us here so we might talk about the new guidelines. The guidelines actually came into effect, full enforcement, on December 29, 1973. They're known as Sub-part E in the field, and we have done a number of training sessions to regional and SBA people. Our particular contract with the International Human Rights Association runs until April 1, 1975. We are not concerned about whether or not someone is violating the law. Our primary responsibility is to help develop EEO and affirmative action programs. So, we are not an enforcement arm of the Justice Department. We only have a contract with the Justice Department to explain basically what the requirements are. Since we had been in the field for some time, they felt that our organization could do a good job in working with local civil and human rights agencies and local criminal justice agencies. I, of course, had some 11 years working in a correctional institution, so I do have some understanding of the problems in the criminal justice system.

First of all, I would like to take some time to explain why these guidelines came down. These guidelines are not a part of the 1964 Civil Rights Act, Title 7. They are part of the Fourteenth Amendment, so the enforcement process is a bit different. What happened in actuality was there were a number of cases brought against governmental agencies, and particularly against criminal justice agencies which were private suits. The Justice Department felt that they needed to promulgate some rules for themselves to preclude this. So, approximately two years ago, they started circulating these regulations for comments and so forth. So the authority for Sub-part E is the Fourteenth Amendment, and not the 1964 Civil Rights Act, Title 7. The reason we have the contract is because we deal with both the Fourteenth Amendment as far as giving advice to complainants but we have been dealing primarily with Title 7. And many of the references in Sub-part E have to do with Title 7. With that, I'll proceed.

The Justice Department determined that there can be no reduction of crime and delinquency unless there is full and equal utilization of minorities and women. And how they came to that conclusion, we're not quite sure. Nationally, we see that minorities rank about 4 percent of criminal justice agencies and, of course, women utilization is about 2 percent. Now, for whatever reason minorities and women are not getting into the criminal justice system, you can give all kinds of arguments, but the courts are saying if they don't get on board, then there must be something wrong with your selection criteria. Those people who are considered as recipients would be political subdivision, any state, combination of states, subdivision, or any department agency or instrumentality thereof, which might be a lot of double talk, which means that everybody is covered as far as the first part is concerned. There are a number of other qualifiers after that. Here's what a recipient must do. You must formulate a plan, implement a plan, and then maintain that plan. Those are the three requirements of Sub-part E. There are some exemptions. You must formulate. Now this is the ultimate recipient; that is, the police department, that would be the court, the probation department, the parole department, that is, the recipient of LEAA funds. You must identify your own problems. No one comes in to tell you what they think your problems are. You as the recipient must do that yourself. There are some exemptions that you might or might not be interested in. Under Title 6 of the 1964 Civil Rights Act, there are some exemptions for Sub-part E. Any educational institution, general hospital, medical facilities or non-profit organization is exempt from these guidelines. They're exempt from these guidelines in that the authority for determining civil rights compliance has been delegated to HEW.

In addition to the definition of a recipient, if your police department has 50 or more employees, if you have received \$25,000 since the enactment of the Safe Streets Act, then that's continuous. In other words, from day 1 to 1968, up to now, at the time you apply for a grant, you have received \$25,000, then you're covered. Now, the 50 employees or more and \$25,000 have to go together. If you have 49 employees, then you do not have to come up with an EO program. But you are to certify that you are not required to submit an EO program. The last point, if you have 3 percent minority population—minorities in your service population, service population for the purpose of cities, counties and states would be the corporate limits of the city, would be the county line for county and, of course, state line for state. Now, you would look at that service population to determine if

you have 3 percent minorities within those confines. If you do not have a 3 percent minority population within your boundaries, then you must institute an Equal Opportunity Program for women. So, if you come up with 50 employees or more, \$25,000 since 1968, you do have 3 percent minority population, and you have to come up with a program for minorities and women. If you have 3 percent minorities, you're automatically going to have the women (at least 50 percent).

The definition of minorities shall include persons who are Negro, Oriental, American Indian, Spanish surname Americans (Spanish surname Americans means those of Latin American, Cuban, Puerto Rican, Spanish origin), in Alaska, Eskimos, Aleuts should also include the American Indian. That's basically the definition of minorities. I told you about the service population for city police department, county sheriff, or state police. Now, the service population for a correctional, probational or parole facility will be inmate population. In other words, if you have a state prison, your service population would be those inmates inside that prison. If you have a probation program, it would be those people under supervision. That's your service population, not the general population. Now, that's important when we start to talk about disparity.

When you come up with an evaluation of your own EO program, there are three basic areas and then a number of sub-areas under what you must do. You must identify and analyze your recruitment process; your selection criteria; and your promotional procedures. Now, I have been out of D.C. since May 15 and I can't carry enough analyses of Sub-part E. I think there are about 15 copies, and if you need some, certainly I can mail copies, but we'll give you an analysis of this. If you want to talk about it a little later, I'd be more than happy to.

Let me digress for a second. Marquette University also has a contract with LEAA to provide technical assistance for the ultimate recipients. In other words, if you are having trouble putting together an EO program, you can get in contact with LEAA Division of Civil Rights and you can request technical assistance on a local level to help you implement, formulate and maintain an EO program.

Let me get into some of the specifics. They have established a guideline to determine significant disparity. That's called "under-utilization." Let me give you an example. If you have 530 employees, consisting of civilian and sworn in your work force and let's say within your geographical area, you have 20 percent minority population and, minority, of course, being defined as I just did a few minutes ago. That would indicate that one-fifth

of the population within your city was minority. If you had full utilization you would have approximately 106 minorities out of the 530 people in the work force. The work force does not just include those people in uniform. If you had 106 minorities, you would have what is called full utilization of your minority population. They have determined that if you have something less than 70 percent, then there is probably, and I'll quote again, there is probably some under-utilization of your minority population. In other words, if you did not have between 71 and 72 minorities out of the 530 work force, then you have under-utilization of minorities. There are no guidelines for under-utilization of women. Not at this time. But if the NOW chapter in Tampa has anything to do with it, they will be in existence before the year is out. This is what they call a significant disparity. In other words, if you have 530 in your work force and have only 15 minorities, there is a good chance, particularly if you have a lot of employees and have received a lot of funds, that you will be in for a compliance review. And, as of last week, there have been 17 compliance reviews nationally. Yes, sir.

Question: If you had 250 minorities in that group, would you be subject to a compliance review?

Mr. Taylor: Absolutely not. You'd probably get an award from them. Under-utilization is the only thing they're worried about. Hawaii, Washington, D.C., and about four other jurisdictions are exempt from these guidelines because their major work force is already minority. They have to come up with programs for women.

Let me get to some of the goodies that will be necessary if you intend to have a good EO program. When it comes to job classification, you will be required in your plan, which is on file with you only. The plan that you institute stays at your facility. LEAA and the state planning agency can audit or review your plan, but again, it is your assessment of what your EO needs are, if you feel you have any. And, of course, I don't think they're even asking whether you do or do not; they expect you just to come up with a plan. You must come up with job classifications and assignments by race and sex; you must indicate the number of employees in each job classification and each assignment; and their principal duties and rates of pay by race and sex. You must also indicate all aspects of disciplinary action, whether it's an oral or written reprimand, and it must be broken down by race and sex. You must maintain a flow of applicants by race and sex, and that might create some problems for you, particularly if you mail out some applications. They have taken the position that you will not identify the applicant until they come in to take an exam, and then that has to be visualized by a clerk or someone to make what you

think they might be. You are to keep records on promotions and applications for promotion, transfers, voluntary and involuntary termination. You must, from the Census Bureau or your state employment agency or some other reliable agency that is comparable, do demographic data of the labor statistics; and a narrative statement of your policies and job descriptions. Define what your test is. For the sake of Sub-part E and Title 7, a test is anything that you utilize to select people. A test is not limited to paper and pencil. If you require an agility test, then that is still deemed to be a test. If you give polygraphs, that's a test. An oral review is a test. A physical is a test. So, anything that you do to select people in or out is perceived as a test under these guidelines. You must assign someone in your agency who will be responsible for the Equal Opportunity Program. You must disseminate the information from your Equal Opportunity Program to your service population, and then you must implement a minority recruitment program. The certification shall state the following: I, \_\_\_\_\_ (name of person filing the application), certify that \_\_\_\_\_ (name of agency) has formulated an Equal Opportunity Program in accordance with 28 C. F. R. 42. 301, Sub-part E, and that it is on file in the office of \_\_\_\_\_ for review or audit by officials by the Congress and state planning agency or the LEAA as required by the relevant laws and regulations. That's what the certification should state. Non-compliance is failure to implement and maintain an equal opportunity program as required by these guidelines shall subject the recipient to LEAA sanctions prescribed by the Safe Streets Act and the EEO and the equal opportunity regulations of the Department of Justice. Now, I have given you a cursory overview of these guidelines and I am sure there are a number of questions and I can answer most of them. I won't give you a bureaucratic answer; I'll give you a straight answer. Yes, sir.

Colonel Hegarty: Gentlemen, try to limit your questions to the guidelines that Mr. Taylor has laid down and let's not get into the U.S. Attorney's Office responsibility with regard to taking people to court and things like that. Mr. Taylor has a direct responsibility under the contract. He has to explain the requirements under Sub-part E. That's the area we should restrict ourselves to this morning.

Mr. Taylor: Now, if you have some general concerns about some laws, height and weight, agility, polygraph tests, and things of this sort, I can respond to those.

Question from floor: I have a question on the service population. Is this the population of the state by percentage or is this the population of the people you actually deal with?

Mr. Taylor: In service population, if you are a municipality, then you want to look at everyone who is in the corporate limits of your city. That's your service population. In other words, if you were the recipient of a grant, then everyone in the city should benefit from a new communications system, from a PCR program, or from a crime prevention program. So, everyone within the city would benefit, but the EEO program would have to be directed to your department. It would not include a planning department. If we're talking about work force and if the mayor signs off on a grant, for instance, what really happens is that he doesn't sign off for an EEO program, for planning and the legal counsel's office, or whatever case it may be. He only signs off that the EEO program will be implemented in the recipient's department. And, that's all.

Question: Maybe I can get specific. Say that we had a 13 percent minority base in Nevada, as far as dealings. Say, we took a survey and found out that we deal with only 8 percent total minority base.

Mr. Taylor: If you're talking about a state program, no matter how many you deal with, you would still have to include it. But, as long as you're above the 3 percent, it wouldn't make any difference anyway, whether it went up to 90 or 3 percent is, of course, your cut off. I think Iowa, for instance, only has 2.9 minorities in the whole state. So they don't have to come up with an EEO program for minorities but they have to come up with a program for women.

Question: Lou, what is the service population of a state? Does it exclude those cities within the state that are policed by other agencies?

Mr. Taylor. No, you should have some statistics from the census bureau that would indicate the number of minorities by the breakdown that I gave within the state. You would not exclude those people in the municipalities. You have to add them all in, as a total.

Question: Lou, some of us in the west have a peculiar problem in that we have Indian reservations within the state. I have no jurisdiction over the Indian population of that reservation. Although we patrol the state highways on the reservation, our jurisdiction extends to "non-Indians." Would we include the Indian population in our state?

We're trying to get some special exemptions for the Indians, the same as for the D. C. and Hawaii. But until that time, you have to include them as being part of the minority population.

We've been including them, but having listened to you just now raised a question in my mind since we don't have any jurisdiction over them. Are they really part of the population?

Right now they are not exempt, but I know that we're trying to come up with an exemption for them. The guidelines still indicate that they would be part of your service population, even though you might not patrol them directly.

Question: The fact that you do not have jurisdiction within your boundaries over that population and the fact that they maintain, for instance, the Navajo tribe in New Mexico and Arizona maintain that they are a sovereign nation—has that issue ever been raised?

Mr. Taylor: Yes, when I was in Dallas, Texas. That issue was raised, and it creates a problem for them. I'm certainly glad I don't have to make that decision. But, basically, they're still included as a service population. I would agree with you, they do monitor and supervise and take care of their own, but for the guidelines, you still have to count them as far as being a population that you serve because they're within your boundaries.

Question: Now, the same question. If you have a certain Indian population within the state, do you consider all the minorities as a group—I'm talking about your hiring people and your promotional aspects. Say, for instance, you have a 10 percent Indian population. Does your hiring, promotional and all other aspects have to correspond with 10 percent Indian, or do you group all the minorities in one percentage?

Mr. Taylor: Let me try to restate your question to be sure I understand. If, for instance, you have an area where you might have 10 percent native population, and maybe 5 percent Spanish, and maybe 2 percent white. You would lump all of them together as minorities as defined by these guidelines, and then you would try to establish some equity based upon that. In other words, the guidelines don't address themselves to giving 10 percent of the jobs. Suppose you were going to try to go for 100 percent utilization based upon the percentages. The guidelines do not address themselves to 10 percent native or 5 percent SSA, or 2 percent black. All minorities are just lumped together in one group and you try utilization based

on that. Now, Sub-part E, Title 7 wouldn't allow you to get from under that because minorities as a group, e.g., Spanish could say you're discriminating against them in favor of the natives. Blacks could say... and so on. So, I don't want to mislead. Many of the things that are required in Sub-part E are fine, but it's not going to exempt you from a Title 7 suit. In Leah vs. Cone Mills and Cypress vs. Newport News General and Nonsectarian Hospital, these two agencies or responders were found guilty of discriminating primarily because they didn't hire any minorities for about five years. The court said, if you go out and say you want to hire minorities or women and you haven't hired for a long time, because they don't show up doesn't exempt you from a suit. You've already created an image in the community that we don't want any of you in here, and so if you don't take affirmative action to let people who have been excluded know what the reasons were, you are still liable for a Title 7 suit. That's called chilling effect. Let me give you a case on point. Supposing that you had just come to Reno, and you were out by yourself and were looking for a place to drink and heard some nice music coming out of this bar. You looked in and saw a lot of blacks with beards and big Afros. Let me ask you, would you walk in and get a drink, even though a sign says, "Whites welcome?" And that's what chilling effect really means. If the force is all white and all male and has been that way for 10 or 15 years, then for some reason it got that way, whether by design or not. Word of mouth recruiting, if you have an all white and all male work force, has been found discriminatory in nine court cases. If you hire women within your system, and there are a number of sexist remarks being made such as "We don't know why you don't go back to the kitchen," or "You don't belong here—women can't work in criminal justice systems." Now, these remarks are being made by other officers. If that woman takes that complaint to her supervisor, and if the supervisor does not provide her with a safe working environment for all your employees, that's Title 7, Sub-part E, no problem. Yes, sir.

Question: What if your recruiting programs fail to generate qualified applicants?

Mr. Taylor: First, I'd ask you what is a qualified applicant? Secondly, I'd ask you, where do you recruit?

Floor: Well, we try to recruit everywhere.

Mr. Taylor: Okay, but do you have a predominately white, male force?

Floor: Yes.

Mr. Taylor: How many minorities do you have? Just a ball park figure. What's your work force?

Floor: 41.

Mr. Taylor: Okay, how many civilians do you have?

Floor: Approximately 148.

Mr. Taylor: So you have something like 148. How many women do you have?

Floor: Well, I don't know—we have a lot of women in clerical dispatch capacity.

Mr. Taylor: Traditionally, what happens in recruitment, and I can tell you about Lexington, Kentucky. Lexington took one of their black sergeants and put a picture of him in the paper and said, "We have openings for qualified police officers. If you are this and this, and the salary is this, you know, if you are qualified, why don't you see us about joining." Now, that says a word to the minority community without really alienating anybody, because he was a sergeant. That's one way of recruiting. If you don't have minority groups on your notification list, or women groups, necessarily, and you're recruiting just through the newspaper, you're not going to get any minorities; you're not going to get any women.

Floor: We have this in our brochure.

Mr. Taylor: Okay, but do you make an affirmative recruitment process to these organizations—to let them know that you're trying to recruit minorities?

Floor: Definitely.

Mr. Taylor: When's the last time?

Floor: I personally have made contact with a lot of blacks that I know. It's difficult getting qualified applicants, and as you have explained, just about anything we do could be subject to a suit.

Mr. Taylor: I'm sorry to say, it's true. Almost anything that you set up as criteria for a police officer, could be shot down as being discriminatory.

Take the case of Espinosa vs. Ferra. You're talking about not hiring people who are citizens, and this case indicates that a person who is a rookie could be hired as a police officer without being a citizen. You might require that he become a citizen before they get in a policy-making position, but you can't refuse to hire them, under those court decisions, because they're not citizens. That's another one—challenging—what's the difference—if you give an agility test, is it really an agility test, or is it a test of physical strength? And if it's a test of physical strength, how often do they have to do it? In talking about agility, one city in Iowa requires that all applicants put two 50-pound dumbbells in each hand and go up a flight of stairs three times. To be sure that a woman could do it, they hired a woman who weighed 98 pounds, and she could do it. But she had a Master's degree in P.E. and no one else has been able to do it since. And then, let me ask you this question. A recent survey indicated that 80 percent of a police officer's work was dealing with people more socially than really making arrests or writing reports. Now, I won't indicate whether that is or is not correct. But let me make this one point—it's very difficult to come up with a good job description of what a law enforcement officer does because of various reasons. But if that one fact is true, then 80 percent of a police officer's work is one to one, providing social services, giving directions, and so on. Then, what do they do the other 20 percent of the time? Well, the figures I read said about 10 percent of a police officer's time is writing reports—I don't know whether you agree with that or not—that's a lot of time. The other 10 percent really is spent doing actual police work, making arrests, whatever the case may be. Now, if in fact, 10 percent is writing and 10 percent is actual police work, this is the only training that a police officer gets when he goes to a training institute. In other words, we take out rookies, we send them off to school, we teach them how to write reports and what the law is, but that constitutes only about 20 percent of what he does, but it's 100 percent of his training. Now, where does he get that other 80 percent? Where do you get this? That's a measure of your values and your culture—how you perceive other people, other groups, other religions. And there are only four basic institutions that you can get your values system from: you get them from your family and you get them from the church. That is, if you go to church or wherever you happen to worship. But your value system is generated from these four institutions. If my four institutions are different from your four institutions, then you're going to judge me differently. How do we ever train a rookie

to make discretionary decisions? I don't know. But when we talk about job-relatedness and criteria, how do you measure that? Some of the questions on tests that I have seen really measure culture, and that's all. Let me give you a case on point. It has nothing to do with police necessarily. There was a test given to children in Boston, and on that test it said, "Where do the robins fly to in the wintertime?" All the kids in Boston got that correct. The same test was given to children in Georgia. They all failed it. Now is that indicative of not being a good police officer, or not being a good student, or is that a measure of culture? I took an exam once to be a director of a camp facility. There were 150 questions and 75 of them were like this. Which end of the egg do you put in the egg crate first? I really could care less, and I don't know what that would have to do with my being able to perform. Those are indicative of the kind of questions that you have on most tests. You cannot give an IQ test and say that it is job related, necessarily. Certainly you want intelligence. So these are the questions that we're raising. The criteria that you set down has to be related to what the police officer has to do, and if it is not, then the test is illegal.

We're not up to full strength and have the full panel here—we hope the afternoon will be as interesting as this morning. By preference, our next speaker, who is with the San Francisco regional council for the EEOC; graduated from the Law School at Georgetown; has been with EEOC in Washington since 1967, drafted and supervised decisions rendered by the Commission on complaints with regard to discrimination. Transferred to the San Francisco regional office as regional counsel in May, 1973. And I would like to present Mr. Siniscalco now.

Mr. Gary Siniscalco: Thank you. I'm going to address my remarks first of all to what the EEOC is and what you can expect from it, and then give you a brief discussion, a sort of summary of the one-week training course that I give and what discrimination is.

What is discrimination? There are basically two types—we all thought originally when the Civil Rights Act was passed that the real gist of discrimination was what we call overtreatment, primarily with blacks and Chicanos, that is, the private employment sector; the sign out on the front of the plant gate saying, "No niggers need apply." Or, the signs on the colored and white restrooms. It's devolved approximately more subtly than that and there is an overtreatment, but it's very simply hiring a white, hiring a male, or hiring an Anglo with qualifications less than those of a similarly qualified minority group member or a women, or a more qualified

woman or minority group member. Pure overtreatment, the application of different standards, or another way of saying it, treating a minority group person or treating any person adversely because of that person's race, color, sex, religion, or national origin. You are all, I'm sure, familiar with cases of this nature. There's no need to go into that. A company like Martin Marietta Corporation, which, although there's some question as to the facts in the case—basically, refused to hire a woman with pre-school aged children for certain jobs, but was willing to hire men with pre-school aged children for those same jobs, without giving any equal consideration to whether or not the man as well as the woman would have difficulty caring for the children, involving absences, etc. It's the bank who tells its women employees, "We don't want you smoking in public because it doesn't look right," but lets the men smoke in public. Maybe something as simple as that, or it may be something much more serious— simply refusing to let all women work on a particular job because, in the employer's view, a woman cannot do it.

You've probably heard about the BFOQ exemption in Title 7, that's the bona fide occupational qualification exemption. By that we mean that it is lawful to discriminate where sex or national origin, not race, is a BFOQ for the particular job in question. As the courts have interpreted it, particularly the 9th Circuit, court of appeals for the west coast primarily, where most of the agencies here are under that circuit jurisdiction—it has held that only where sex of an individual correlates with a particular job, may sex be a bona fide occupational qualification. We have extended that in our sex guidelines to include actors and actresses, attendants in men's and women's restrooms and a few others. Neither we nor the courts have extended it to include the exclusion of women from law enforcement positions; that is, that sex would be a BFOQ exemption. It's different from the main area of my comments, that is, whether or not certain requirements constitute a business necessity.

Leaving the area of overtreatment, in 1971, in a private race discrimination case, the Supreme Court in Griggs vs. Duke Power Company, in a unanimous decision written by Chief Justice Berger, held that where testing and educational requirements operated to discriminate against blacks; that is, had an adverse impact against blacks, the court held such requirements to be unlawful in the absence of a showing by the employer that those requirements were job-related, and this decision which has come to be the grandfather or the grandmother, if you will, of employment discrimination cases, has radically altered the whole employment scene, both public and private employment. I'll give you

the principle again because it's absolutely vital to this discussion that you understand it fully. The Supreme Court developed a three-pronged principle. Where an employer maintains a standard, any preselection criteria—it could be a test or education requirement, as in grades; it could be an arrest record requirement that you not be arrested or convicted; it could be a requirement that you not have been garnisheed; it could be a height requirement—any preselection criteria for hiring or promotion which has an adverse impact on a Title 7 protective group; that is, where it has a sexual, racial, ethnic, religious or color impact. That practice will be found unlawful under Title 7 if: 1) the employer cannot show that the particular criteria or requirement is job-related; and 2) there are no reasonable alternatives which would have a lesser impact. The second part of that is going to be altered slightly in some guidelines, I think, that are going to be promulgated, changing the present employment selection guidelines of EEOC. But, the first two elements are what we are primarily concerned about. Does the policy have an impact? If it does, have you demonstrated it to be job-related? Let's suppose, instead of this being a gathering of the IACP, I'm running a boilermaker factory and you're all applicants as boilermakers in my factory. I ask the applicants, "How many of you are left-handed?" Can I get a show of hands on left-handers? There's not one left-hander? Three left-handers. Let's assume that those three left-handers were blacks, and I say, "Thank you, I'm only going to hire right-handers. You three gentlemen can leave." And you say, "Wait a minute. Why is being right-handed a criteria for the job?" And I say, "Because I happen to like right-handers. Anyway, it's none of your business." And the three of you are looking around and see everyone else is a white male and you think something is up, so you trot out to your local EEOC office and file a charge of race discrimination. The investigator comes out and talks to me and I say, "That's right. My sole qualification for employment as a boilermaker is that the applicant be right-handed. Otherwise all he has to do is be a warm body. And I admit that you can either be left-handed or right-handed to perform the job. In fact, there used to be a number of left-handers working here in the factory when I took it over and I fired them all and hired only right-handers." Is that criteria unlawful under Title 7? Would anyone care to hazard a guess? Using the Griggs principle, that is, does it have an adverse impact, and if so was it job-related? Let me change the facts of my case for a moment. Let's assume instead of the three individuals being black, two of them were white and one was black, who were left-handed. Would it be unlawful? The answer purely and simply is no, because no one has been able to show, neither the plaintiff nor the Commission, nor anybody else could demonstrate yet that the right-handed requirement has an adverse relationship on a racial, ethnic, sexual, religious or color

grouping under Title 7. Absent a showing of such impact, I can use any darn, arbitrary, irrational requirement I like, but it is not unlawful under Title 7 to use such a practice, unless it can be shown to have an adverse impact. Even if I said the only reason I had that policy is because my last six wives were all left-handers and they all ran off on me, one after another, and that's why I don't like left-handers. Let me change it. Suppose I say I'm only going to hire blonde-haired boiler-makers. Is that unlawful under Title 7? Well, let's look at the analysis in terms of Griggs. Does it have an impact on any Title 7 protected group? We're talking about natural blondes. Certainly it's going to have an exclusive adverse impact on blacks, on native Americans, on Asians, and on Spanish surname persons. So it will at least impact on national origin and racial lines. And in the absence of a showing that the criteria is job related, it would be found unlawful.

Let's look at a height requirement for a job as a police officer. Does it have an impact? Yes. It has an impact against women. Keep in mind, we're not talking about exclusive impact necessarily. There are average heights in this country, and let's assume it's true for all the states. It's 5'8" for white males, 5'3" for white females, 5'4½" for Chicano males and 5'2" for Chicano females. Certainly there are some white males under 5'8". Now that doesn't mean that a white male can come in and claim that the policy discriminates against him because of his race. That doesn't mean they're not going to have an adverse impact on at least women and Chicanos, male and female, and probably on Asians and native Americans as well, although I don't know the statistics. Once the adverse impact has been demonstrated, the burden is going to shift to the police department to demonstrate that the criteria is job-related. Now, I'm not standing up here and saying that you can't use that criteria. I'm simply saying that if you're going to use it, the courts are going to require you to prove that there is a manifest relationship between the minimum requirement for height and successful performance on the job. Is anyone here from Ohio? The major decision, the report decision in this area, involves the police department of the City of East Cleveland, where they maintain the 5'8" requirement, and after showing the impact, the police department sought to prove the job-relatedness of this criteria, and argued the need for arm leverage in fighting. In the testimony the judge found that most police officers don't use their hands. They either use a billy club or they have a gun or some other weapon or else they're very proficiently versed in judo, such that in the court's opinion, this rationale did not stand muster. The police department contended that there was a

greater risk of short police officers over tall police officers in getting into fights with suspicious persons, etc. The court took note of a study in the City of Cleveland which demonstrated that of the police officers getting into fights there was a greater percentage over 6 feet who got into fights than under 6 feet. The police department also raised a contention of crime control, being able to see over crowds. That's why they wanted tall police officers. The judge said, "Let me see if I can get this straight. Your minimum height requirement is 5'8". And since that's the average for males, in a crowd you are going to have persons taller than 5'8" and shorter than 5'8" and, indeed, if a person is 5'8", their eyes are only at a 5'6" level. So, a 5'8" patrolman would not be able to see over the crowd. So really your criteria, if that were a business necessity, would have to be about 6'3" or 6'4". " Okay, I'm not saying that in another case, in one of your cases or situations that you may not have been able to properly validate that requirement. You may well have. But I am just pointing to one case, in fact the only case involving a police department which is actually beside the question of height requirements, where the court rejected the business validation, the business necessity claims of the police department and overturned the height requirement.

What about testing requirements, taking a Civil Service exam, taking the Public Personnel Administration exam. In a case called Bridgeport Guardians vs. the Bridgeport Civil Service Commissioner. . . I don't mean to cite constant cases to you, I don't want to play lawyer, but I do want you to understand that what I'm saying is simply what the courts have held to be the case. In the Bridgeport Guardians case, black police applicants filed a charge claiming that because of this test and the adverse impact of this test on blacks, they were being excluded from the Bridgeport Police Department, and that such test was unlawful. And it was the PPA test, a very common test. The board examined the test, found that the pass-fail-ratio for blacks was greater, the fail ratio for blacks was greater than it was for whites, significantly so, not just a 2 percent differential or something like that. It's got to be a significant impact, statistically significant. What that means is really a question of fact. Once the impact was shown, the police department could not demonstrate that the test had been validated in accordance with the EEOC guidelines.

Now as I say, they're going to be modified somewhat, but those guidelines are fairly stringent, and will continue to be fairly stringent. They're coming out with new ones, but let's assume for the sake of argument that the guidelines are going to be similar to the old guidelines—there won't be that much significant change. Since the police department had not validated them in accordance with those guidelines, which are deemed to be a proper interpretation of Title 7, the requirements of Title 7, the court threw the test

from hiring. And having thrown out the test, imposed a quota of hiring to remedy the effect of the court of the past discrimination. Keep in mind that these various criteria we're talking about, whether it be the testing requirement, or the educational requirements, are neutrally applied. There is no requirement under the law that the Commission of the Department of Justice or a plaintiff must prove bad motivation. Motivation is not an issue. If the consequences or the results of the criteria which you maintain are adverse to a Title 7 protective group, that is sufficient. The courts only deal in terms of the consequences, not in terms of the motivation. So you could have all the good intention in the world, which I am sure you all do, which most employers do, and we're pretty much past the era in many instances of overtreatment. But it's these neutrally applied practices that the courts are now overturning. One other area of interest in this Bridgeport Guardians case—just to show you how subtle discrimination can be, part of the test was the presentation to applicants of eight mug shots which applicants had five minutes to look at. Then the mug shots were taken away and they had to answer questions involving characteristics of the various individuals on the exam, the mug shots. The plaintiffs argued that all the mug shots were of white guys, and everyone knows that just like whites can't tell blacks apart, blacks have trouble telling whites apart. And the court said, "That's right." That's why blacks tended to do less well on that portion of the test than did whites, and required that some minority mug shots be included in the exam. A very subtle form of discrimination is in oral interviews, and yet it is well known to the courts that where you've all white or all male interviewers on a selection board, and the oral interview is fairly subjective in nature, this constitutes a possible vehicle for discrimination. It doesn't mean that it's entirely unlawful and you can't use it, but the commission and the courts are going to look very closely at the statistics. What's the evaluation rate on oral interviews? Or on oral evaluations? If 50 percent of those persons being interviewed are black and female, and only 10 percent of them pass the oral interview, and has many subjective criteria in it, such as appearance, dress, manner, etc., which are not capable of objective review, the courts are going to overturn those types of practices.

I've told you many things you can't use, or suggested that you can't use, but that is not what I'm saying. I'm not saying that you cannot use criteria such as testing and education requirements. The courts, in interpreting Title 7, simply require that any criteria that you use be validated for the job in question. No one, neither the commission of the Department of Justice, nor any other agency in the government, nor the courts suggest the hiring of unqualified minorities or unqualified women. What the courts

have attacked are the so-called qualifications upon which persons in the past have been considered unqualified. What the courts have done in terms of quotas— we can have a whole session just on that. Let me say this. The courts have only imposed quota hiring as a temporary remedy to eliminate the vestiges of past discrimination. It's temporary and only done where there has been a finding by the court or by the commission of past discrimination, and it does not suggest that unqualified persons be included in that quota. And with those three things in mind, I'll close and answer any questions.

Our next speaker is Mr. Stanley Pottinger. He is an Assistant Attorney General, Civil Rights Division, United States Department of Justice and has been for the past year and a half. His background as an attorney involved work as a director of the HEW office of civil rights from 1970 to 1973. Previous to that he was a regional attorney for HEW in the San Francisco area. His home is in San Francisco, where he has practiced law since 1963. The Civil Rights Division responsibilities are in the areas of education, housing, criminal statutes, federal programs, etc.

Mr. J. Stanley Pottinger: I think since Gary has gone through a description of the law, what I would like to do is tell you a few things about the litigation program of the Civil Rights Division of the Justice Department; where it is that we are now in court; how it is we get there and what kinds of remedies are requested in court; and specifically, the kind of process that we follow in dealing with various police departments around the country during the course of investigation or litigation. As Gary indicated, either through the referral of a case from EEOC or through our own investigation perhaps with the resources of the FBI, perhaps the use of private plaintiffs and their discovery process, the Justice Department may enter, or bring a case. What we have done in the past few years under Title 7 is filed against those police departments where the law and the facts are quite clear in the sense that there has been an openly admitted at least, it is easy to ascertain. Those cases have been the first series of cases brought and in most of those cases, not all, but most of them, the case is settled with a consent decree because, in fact, there is no contest, that is to say that the counsel for the police department will indicate that historically there has been a policy of excluding women across the board, excluding blacks or Chicanos, or Puerto Ricans, or whatever protective classification you're dealing with. Typically, the police department will also point out that these policies do not exist anymore, and so what we are dealing with in the course of

litigation is remedy and the effects of that past discrimination. There are occasions, including some in the region which is represented at this conference, where there still do exist formal policies of exclusion. But I would say for the most part that the formal policies have been dropped or the more difficult questions, either raised by invalidated testing and more subtle forms of policies. And sometimes, as Gary points out, are not the result of bad intentions, but the result of inadvertent extensions of previous policies.

What is it that a police department would be required to do if it has been found or agrees that it is dealing with a situation that has been an adverse impact by virtue of past policies that do not anymore conform to law? I want to say a word about the quota system that Gary touched on just at the end of his discussion. There's a great deal of misunderstanding about the use of any numerical figures. Ordinarily people think of any statistical or numerical approach as a quota system, with all the evils that the word connotes. Those are that an absolute number of persons, whether women or minorities, will have to be hired regardless of qualifications, regardless of the availability of qualified women or minorities in the labor market in question, regardless of the adverse impact that non-qualified persons would have on the performance of the police duties, regardless of the ability of that police department to perform its duties to its community, and certainly with an expected demoralization, not only in the community, but of your own police force. If that's what quota connotes, then quota is certainly not only wrong in terms of the law, but it doesn't make sense. And I hope that you never find the government, either EEOC or the Justice Department, or any of the courts in private suits, imposing quotas that carry the characteristics that I have just named. There is another process that does engage the question of statistics and numerical figures. We call it goals in time tables. A lot of people scoff at that because they say it doesn't matter what you call it. Aren't you really engaged in the process that we think of as quotas, absolute figures that must be reached and if they are not reached, you are in contempt of court, or in violation of the law. But there is a different process which we call goals and time-tables which says that where you have a policy that has led to discrimination so that you are, in fact, excluding women or minorities across the board, and there is a demonstration first that there are qualified women and minorities in the labor market which you tap through your recruitment, (that is not easy to tell in precise numbers), but one can tell especially if

there's a matter of total exclusion. One can tell, in fact, if there are women and minority applicants in the area in question, or likely to be. Secondly, where the testing or the preselection criteria, whatever they happen to be, are squared away, you know that they're not biased, they're not unfair, not discriminating unfairly against women or minorities. They're discriminating between people on the basis of their skills rather than extreme things like sex and race. Once that's clear, then you know that you have the performance standards that are job-related. The court wants you to make a measurement, the best estimation you can, after some careful analysis of the labor market in front of you, of what it is that you would have on your police force over a period of three or five years, if you were essentially color blind. If you were, with the selection process reaching into the entire community of qualified people, including women and minorities. Obviously the exact number will vary from one community to the next. A city such as Washington will have a higher number of black minorities who are qualified than perhaps— take a guess— Medford, Oregon. But, depending upon the market that's available, and where you can recruit, you will make an estimation of your capability if it were non-discriminatory. Secondly, the court will not only in some cases, not all, depending upon the policies of operating, the court will say what is the level that you would be reaching of minorities and women, in addition to white males, if you were non-discriminatory, and how can you in some fashion make up for the past policy that totally excluded them forever. In other words, so that non-discriminatory neutral standards don't continue to perpetuate a more blatant form of prior discrimination. In that area our policy is not to take a position that requires a police department to catch up for the sins of the past, running back as far as one can find in the dusty books and records of that department. But, that it would be impossible and unwise, and I frankly know of no law enforcement agency, or for that matter, women's group or minority group to advocate that the department shut down all of its recruitment of white males for a period of time to take only women or minorities or both in order to try to "make up" for the past. You will find that the court will say that for a short period, as Gary has pointed out, not on a permanent basis, there may be some acceleration of the recruitment and selection process, if you can estimate that acceleration and non-discriminatory processes will yield qualified, capable women and minorities.

Now what happens you may ask, if you don't find capable, qualified women and minorities in the numbers that we projected initially, when we made our analysis that day on the courthouse steps, presumably for some time before

that. We estimated that 15 or 20 percent of the qualified minorities and women who are in the labor market are eager to make our non-discriminatory policies known. If we don't make them known in the first year or two, are we in violation of the law or are we in contempt of court? The answer by definition is no. If a quota were in operation, then, of course you would be because as I defined quota and as many people think of quota, you must reach it. It is an absolute numerical level. But if you made a careful and good faith effort and you have missed the mark by some large degree, then eyebrows will be raised because you should not have been that far off in your estimation. The courts are just reaching the point in this field where they are beginning to review affirmative action after it has taken place over a period of time. They are, I believe, true to the theory of affirmative action. That is to say, true to the notion that you are only required to make your effort of hiring and selection with qualified minorities and women. Now, if you missed the mark on the down side but you can demonstrate that the effort and the qualifications measured and the preselection standards used are in fact, fair, then by definition, you would not be in violation. I don't mind raising that fairly with any of you. There are some people who like to play "hide the weenie" with employers and say, don't tell them that because if you tell them, then they're just going to goof off and not make the effort because they've got that hatch door. Yes, you've taken the sting out of the evilness of quotas, but thereby you have given everybody a motive not to do what is right in a good faith sense. I don't believe that is true, for a couple of reasons. First, because I don't think the government ought to play "games," or try to kid you about what the law is. Least of all do we need to do that these days. But secondly, I don't think it leads to wrong motivation, in most cases. Our experience has been that those police departments, and most of them are large ones, that we've been dealing with, who have undertaken active recruitment, have discovered not only the availability of qualified women and minorities, but discovered the desirability of having them a part of the community on the force. And I frankly do not know of a police department with whom my division has dealt with within the last few years that has not come privately back to us and said the women who are on their force are excellent, the blacks who are on their force are excellent, as well as Chicanos, Puerto Ricans, and so forth. Those with whom they have been dealing have made a great contribution, and the fact that they are non-discriminatory increases and enhances their

credibility with the entire community, the black community as well as the white community. For the most part with exceptions, of course, that are proportionate with minorities as they are with whites, we have found that use of women and minorities on police forces has actually increased the effectiveness of police divisions and I think that is only right. If it were the other way, if we were enforcing a sterile and empty kind of policy of what is legally right but did not make sense in terms of law enforcement, I frankly would have serious doubts about the wisdom of the law. But it is not the case. I hope that those of you who are dealing with your colleagues in the industry, in the particular law enforcement industry, who have had experience in this area will come to learn the same thing, not dwell on the exceptions, the failures that exist in the black and women's community as well as in the white community, but with regard to the general picture.

Let me say in conclusion that a number of police departments, the Washington, D.C. department is a good example in terms of my experience. Have been publishing information and accumulating data of which I assume you are aware. If not, may I urge you in terms of your own interest in making sure that there is compliance with the law. Seek out the information through the various clearinghouses that exist and take advantage of that information which your own organization has provided. On occasion we find that members of your organization do not take advantage of this. In terms of our discussion with the police, I don't know that there are many police officials in the country that are not aware of or associated with your organization, but there certainly are some who are not aware of what has been published in the field. I would only like to urge you to obtain this information because certainly the experience of your own colleagues as it is carefully analyzed and disseminated, will have as much or, I hope, greater credibility than any of you will get from the law enforcement officials. By that I mean in the field of discrimination, like myself. Because of that you will know that it is coming from those of your peers who have the day-to-day responsibilities that you do. And again, I think that our own monitoring of this information leads us to believe that the enforcement of the law in this area, if carefully done with good faith on your part and care, rather than the great fear of the reactions that may have arisen in your department or the community, will lead not only to a good and careful compliance with the law which can be to your advantage, but also with great acceptance on your police department force and in the community.

Colonel Hegarty: I think we owe a bit of gratitude to all three of our speakers who have had varying aspects of the complex issue with regard to personnel practices in today's society presented to you, and I hope you will take this opportunity to address questions to the three individuals who don't seem at all reticent about making direct responses.

Before you take questions, let me throw one out--has anyone seen the Police Foundation study done in Washington, D. C. comparing 86 policemen with 86 policewomen on the force in their performance over the last year. Has anyone seen that?

Just the newspaper...

I've just seen the excerpts, I haven't seen a copy of it.

I don't think they have released it yet.

Really? In line with what Stan was saying, I think that would probably be an excellent document to get hold of. Who runs the Police Foundation? What kind of organization is it?

Pat Murphy--it's a Ford Foundation supported agency.

So, I would imagine it is a fairly independent and disinterested study on the question of the employment of women.

Question: Gary indicated, I believe, that the orals where the ones above you express themselves, or appearance or projection, is a subjective thing and not valid. And yet, this morning when Lou gave his presentation, he said 80 percent of the time, people on patrol are involved in social discourse.

Gary Siniscalco: Yes. Your question was, "Did I say that the use of oral interviews was not valid. Correct?"

Floor: No. I thought you said that the method of expressing yourself, or appearance, the way you project, is subjective and not valid.

Gary Siniscalco: No, but if that's the way it came out, that's not what I intended to say. Let me give you the factual background. What we have found and the courts have found is that particularly in the private sector, when you're dealing with unions with training programs and you have a three-man committee which is all white, all male, or you have a foreman

selection committee which is all white and all male, and you have a significant number of minorities in the community or in the labor force, or women, and they have not been selected. They have either not been recommended or they have failed the oral exam, or whatever. And significantly greater numbers than whites. Let's say, as I said, of 100 blacks going through the oral exam portion, and this oral exam portion involves an evaluation of subjective factors, and the reviewing committee says it rejects a significantly greater number of minority applicants, because of poor attitude, or a woman because she's too aggressive, or applicants because of improper dress. If these evaluations statistically affect significant numbers of whites as well as blacks, then there is no statistical disparity, and in the absence of statistical disparity, it would not be deemed unlawful. What the courts have said is "we'll look at the results of this subjective criteria approach and if the results show a significant statistical disparity, then we, the court, will infer that the utilization of the subjective criteria, which has this adverse statistical impact, has been used as a method of excluding blacks or other minorities or women." It's only in that context, just like a testing requirement. If there's no substantial adverse impact in the results of this evaluation process, based on orals, then there is no inference that it is being used in a discriminatory fashion.

Floor: Gary, can I throw in two illustrations and see if I follow you? If you systematically reject everyone who shows up with a dirty T-shirt, regardless of race, color or creed....

Gary Siniscalco: That's purely objective; that's not subjective.

Floor: All right—then dress. The people who refuse to—there's an indication—I used a dirty T-shirt to indicate that the majority of the people show up in a shirt or shirt and tie or suit or sports jacket combination. Let me throw the other one in so you can get the distinction I was trying to make. If we systematically exclude everyone who has an Afro haircut, and statistically the blacks obviously are the people who are going to have a significantly greater number of people with Afro haircuts, and therefore, we don't wipe any whites out in that criteria, but we always wipe out blacks on that criteria.

Gary Siniscalco: That would be the use of a criteria, neutrally applied, which has an adverse impact and which in the absence of job-relatedness would be unlawful. Again, that would not be the kind of criteria we're talking about when we're talking about subjective evaluations. Let me

give you a specific example that the courts dealt with. Now, you have a company—General Motors, which at its corporate level is a paragon of equal employment. They've had an affirmative action plan for years. In their plant in Atlanta, Georgia, 20 percent of their work force is minority. Only 5 percent of the foremen are black. The primary method by which laborers become foremen is the recommendation of a supervisor. So you have 20 percent in the lower category. You've got this recommendation which is based not on time and attendance records which is an objectively reviewable criteria; not based on production requirements, which is objectively reviewable, but based on attitude and ability to get along with others; leadership, dress and appearance generally; not an analysis of does the employee wear a tie, does the employee get in on time every day, etc. But the utilization of criteria which is subjective in nature and non-reviewable. And what the court found in that case and in many others, is that in using these purely subjective non-reviewable criteria, that this purely subjective approach operated to discriminate. Two examples that were given were 1) not wearing the dirty T-shirt or not coming to the interview with a shirt and tie — a tie and jacket; and 2) being absent more than 3 percent of time in the last year—those are objective criteria. Any person investigating the company or the employer could determine whether those have been equally applied. If they have been equally applied, it's perfectly lawful. Those are objective criteria, they are not subjective in nature. Frequently, we think—considering all males here in the room—I would venture to say that if you've ever come up against an "aggressive woman," she's a bitch! And if you come up against an aggressive man, he's pretty sharp. He's a good man to have. You particularly find this in sales positions. Purely subjective criteria, which frequently we have found to be used in a discriminatory fashion. And that's the type of subjective criteria we're talking about. Aggressiveness, attitude, it's not that you can't use these—certainly not, especially as you point out, a major portion of a police officer's duties is dealing with the public and it's this very person-to-person contact which you want to try and decide on. But you've got to be very careful that your first line supervisor, or whoever is making these interview evaluations, does not inject their own subjective views which you, as the administrator, cannot review. Let's say the interviewer is utilizing appearance generally, attitude, etc., and you review the evaluation and see that this interviewer, a male, has said that, with respect to three blacks and two Chicanos, they are too meek or not aggressive enough. And they never said that for any whites. I would suggest that you question that and look at it very suspiciously, because it may well be that the interviewer is looking on... or perhaps you say it the other way around--the blacks are too militant. I would suggest you look at that very closely. It is not to say that the oral interview process per se is unlawful.

Question: Talking about the same thing, could one police department, for instance, in the City of Los Angeles, the objective criteria that interests the examiners on the Los Angeles Police Department is that everybody that didn't come in with a tie and a shirt and coat would be rejected. However, in Glendale, which is a city outside Los Angeles, where they don't give a darn about a tie and coat—they would select these applicants. Now, would that automatically make the Los Angeles Police Department biased in their hiring practices?

Gary Siniscalco: Now, let's assume that any person who came in without a tie and jacket, dealing with male applicants, as opposed to female applicants—certainly if it's an equally applied policy in the IACP and you can't demonstrate—or the plaintiff can't demonstrate—that blacks and Chicanos simply by virtue of their dress or poverty don't have a tie and jacket—let's assume that this is equally applied—and it's equal in impact—you can use it, just like my left-handed requirement. You can require that applicants be appropriately dressed, but as was pointed out, you can't insist that all male applicants have straight hair and not Afros. And that's the difference.

Floor: So, they maintain different standards as long as there's no discrimination.

Gary Siniscalco: As long as they don't have an impact on one of the five protected bases, they can maintain different standards. No one is suggesting that all police departments throughout the country, state and local, have to maintain uniform criteria. All we're suggesting here is that they be non-discriminatory.

Floor: You mentioned awhile ago that the time records could be objective. Is that correct?

Gary Siniscalco: That's an objectively reviewable criteria, yes.

Floor: You also mentioned earlier that a company had a policy of not hiring females with teenaged children. Now, if they can establish a basis that they had made studies which showed females with teenaged children had a significantly, statistically higher absentee rate than the males with teenaged children, would this be a valid criteria for rejecting them for employment?

Gary Siniscalco: The Supreme Court in the Marietta case suggests that this would be a valid criteria. No court has considered that question yet, nor has the commission considered it.

Question: Would this be, then, a potential valid criteria for refusing to hire females in the police business who have teenaged children?

Gary Siniscalco: Let me go back. What the commission and the courts will probably look at in that analysis is 1) whether or not the statistical difference between men and women is so great with pre-school age children, with the absence ratio. In other words, whether or not there is a significant correlation; and 2) whether or not there is a reasonable alternative to that selection device which could have a lesser impact. For instance, let's suppose that women with pre-school age children statistically can be shown to be absent twice as much as men with pre-school age children. I'm no industrial relationship expert, but couldn't one possibility be in the examination of an individual woman applicant's past employment record. Let's say one woman comes in and she's been working for three years. Her child is now four—she's been working since the child was one. She has been late only twice, and absent only five times which is well below the average for both men and women. Would it be appropriate to apply that criteria to her as well as to other women?

Floor: I thought you were talking about statistically significant figures. When you're talking about an individual, you wouldn't develop this.

Gary Siniscalco: Well, but isn't this perhaps a reasonable alternative to the use of a flat criteria?

Floor: Well, if there's no record available for this woman, it wouldn't be.

Stan Pottinger: Let me try one thing, if I can, briefly. I think that the answer is that you can draw the figures out and you can extrapolate from them broad patterns of behavior that may be relevant, but what Gary is saying, I believe, and in which I concur, is that it then depends on what you're going to do with those conclusions you draw. There are two things you can do: 1) you can say that any woman who has teenaged children will not be entertained in her application for a job. Period. Just as you have, as many departments have, an absolute ban with regard to height limitations. Anyone who is under 4'2" is not going to be considered. You're not going to say, "Wait a minute. Let's find out how super he is in his physical qualifications. He's been in a long line of police families and knows more police work than anybody who is 6'3", and so forth." You're not even going to consider his background. If he's 4'2" or under, he cannot be considered. That's one use of a conclusion you might draw. But Gary is suggesting that if you do that and don't look for other, less

prohibitive or impact-oriented ways of dealing with a general conclusion, you may be in trouble. If you take the position that 50 percent—let's make it easier for your position—80 percent of women with teenaged sons or children, are going to be significantly absent from the job. Usually, it's pre-school rather than teenaged. That's why I was curious about your example. But let's just stick to the example. That leaves 20 percent of women, who presumably, by your statistical analysis, are not significantly absent from the job. For you to take the 80 percent conclusion—let's say it's 50 percent for men and 80 percent for women, that's significantly different. But to take that significant difference and thereby convert it into a flat prohibition, that any woman who fits that characteristic, namely, she has teenaged children, would be troublesome. If, on the other hand, you say "because statistically, this is a serious problem, we want our interview process, our personnel office, to examine women who fit that description more carefully, to find out what their situations are—to do what Gary suggests, to find out if she's held a job before, and if so, has this been a factor. Let's face the truth—many more women are freer to work consistent, harder hours today than they were 10 - 20 years ago. Many more women either rely on teenaged children to take care of themselves, or have relatives or live-in help, or whatever. So you will find that more and more women are making that effort. If it's only 20 percent, so be it, but you would have a legal obligation to at least examine that other 20 percent.

Question: Stan, while you're at the microphone, the question of pregnancy was raised, and that's been brought up in a number of decisions. Since everyone is faced with the fact that most of the state police agencies don't have female employees, then they're going to have to embark on it or adopt a program of some kind. We'd like a comment on that.

Stan Pottinger: Generally speaking, the pregnancy problem would be similar to the description I have given with regard to any other circumstance that appears to intrude on one's capability to do the job. It depends very heavily on how significant it is. The pregnancy question—I know how I would deal with it if I were counsel to a police department. I would, as a minimum, make sure that you examine women for that livelihood—there are some women who either have no capability to be pregnant or are at the point in their lives when they are not going to become pregnant, even if they have the capability. But, in addition to that, we have a situation where you've got to look at what kind of leave you allow men if you're looking for discrimination. If you, in fact, find that men, young men, are prone to either leave for better jobs on a frequent basis, or leave for the army, or leave for any other job or personal reason, and you find that

the turnover there is equal to or as significant as women who leave in order to mother children, then I think you've got a problem in saying you aren't going to have women leaving at an attrition of 15 percent a year because of pregnancy, but we'll have men leaving our department at a turnover rate of 20 percent. If, in fact, that's what's happening, then you have a problem and we have discovered in some situations, that's exactly what is happening. There is an assumption that having women on the force is an extra luxury. If there's anything at all wrong with them, then we'll cut them out, when there isn't an equal effort to look at the attrition rate on the part of the men. Maybe not for pregnancy reasons, but other, similar kinds of non-job reasons. I want to emphasize that there's nothing new or unique to that with regard to police departments. I've never done a comparison, but my guess is that police departments are less guilty of that kind of discrimination, and many other industries that I have dealt with, that I won't name now, but I can tell you—well, I'll name one that I think is probably worse than any and that's the universities. They don't even consider women unless they've had a tubal ligation. One other thing I'll say gratuitously, if I can, with regard to the question of rules that you're trying to seek out. I don't mean, for a moment to deter any further discussion. They are probably the most helpful things in terms of your profession that we could discuss today. But there is something else I'd like to say and that is it will be difficult to define a set of rules from us and the government or any counsel that's so specific and so all-embracing that will give you a hard and fast guidance in every personnel practice that you have. Ultimately, what you have to do and I believe, how you will service your department the best, is to become sensitive to the kinds of attitudes that pervade the selection process, so that you are in fact trying to examine and recruit equally—examine persons for their qualifications equally. What reminded me of that is the discussion about the T-shirts, the dress factors, and so forth. You could have an infinite set of standards that go into dress style and the like. I happen to believe that there is a law enforcement mentality that is important to preserve. Not only for you, but for me and my children, and my friends, neighbors, and colleagues. There is such a thing that's real, and it's hard to define, but I believe there is such a thing, an attitude, a style, an approach, an outlook. I think it's extremely important in the law enforcement business to be able to enhance that, to preserve it. I was always taught that there are two kinds of people in society, other than family, who have greater power to help or to foul up a person than anybody else—and that's teachers and policemen. And I believe that's true, so I think you have an incredibly high duty to make sure that the qualifications of those who serve the community are intact. And having said all that, I believe equally that mentality

and attitude can be preserved without discriminating against women and minorities. This isn't a conclusion that's unique to me in my observation. Frankly, my observation is based on those of your colleagues who have lived with and made affirmative action work. Gary, you might want to bail me out on the pregnancy question.

Gary Siniscalco: Give me the question again.

Floor: I forgot the question. I was just discussing the possibility of a certain age group, a certain marital group having a higher pregnancy rate than others, and all I'm leading to is a point. It appears from the presentations here and other places that the statistically significant figures are constantly being used against us. We have to interrogate the 20 percent who are not in this statistically significant field individually to inquire into their particular backgrounds. However, if it's going to be used against us, and it's a statistically significant figure, then we are backed up against the wall.

Gary Siniscalco: That's true, and that's the way statistics are used. The courts use them—well, let me throw out a question here. Is there any agency here—maybe it's an inappropriate question and I'll get no response, but is there any agency here which has population parity for, say, blacks or Chicanos in their respective agencies?

Floor: There is statistical parity, no, statistical inference. Does that automatically mean no discrimination?

Gary Siniscalco: No. It does mean that neither the commission nor the courts can make a prima facie inference of discrimination. Sure, you can use statistics for a lot of reasons. By and large, the commission and the courts use them to determine an impact. If there is no impact on those statistics—then you don't even deal with the question of job-relatedness. But what you're raising goes not so much to statistics to show impact, but to overtreatment. In other words, as I think Stan very aptly put it, you made the analysis for women with pre-school children, not with teenaged children. No analysis was made for men who are athletes, who engage in athletic endeavors. What about an analysis of all skiers? Is it likely among men, that they're apt to break a limb and be absent for a period of time? I don't know. What the Supreme Court has said is that you've got to consider persons based on their individual qualifications. Utilization of a flat rule will usually operate to discriminate, and will usually not be valid. This is a personal point, dealing with pregnancy.

and Stan's advice as counsel for a police department. My wife was examined and it was determined that we absolutely could not have children. We adopted a baby girl who is now 20 months old. Two months ago, my wife gave birth to an 8 pound, 8 ounce baby boy. So, I'm not so sure that that always holds true. But certainly that would be one way in the police department. First of all, our guidelines, which don't have the force of law, by the way, but have been given somewhat great weight in dealing with pregnancy, say number one, you cannot maintain an absolute prohibition against the hiring of a pregnant woman. That is, by you or any employer. But certainly, if you could demonstrate that if a woman applicant were hired and was pregnant, because of the training period involved, she would not be productive in terms of her capacity as a police officer. Until such time she was in her 7th or 8th month of pregnancy, you could probably maintain a prohibition against hiring pregnant women. In other words, you would be able to present a valid business justification for refusing to hire pregnant women. It's just a question of getting your psychiatrist or your medical testimony to reflect the performance of this on training, etc. What about a woman who is on the police force and has been there, say, three years and gets pregnant? Can you maintain a policy of requiring her to terminate, or to take a leave of absence after the fifth month? The Supreme Court decision that Stan referred to involves teachers. Two teaching districts, one had a five month rule and the other had a four month rule, the teachers had to leave work after the fourth or fifth month. The Supreme Court said that these arbitrary flat rules applied to women were unconstitutional. It raised a question under Title 7, we maintain that it does, with respect to teachers because there was no showing as to the rational relationship between this four or five month requirement and successful performance as a teacher during subsequent months. They raised questions of morale and of the problem of getting substitute teachers, and the court countered all the arguments. But, being only a lay person, I would suspect that with respect to persons in their capacity as patrol officers, there might be a much higher risk and a much greater criteria for patrol duties, so that you may well be able to maintain a standard which says that once a woman patrol person becomes pregnant, she must take leave from active patrol duties, and either go on leave or be assigned to office duties. I would think that's a reasonable alternative, perhaps. Certainly a business necessity.

Question: Would it not be discriminatory, if a woman then had a right to office duties where a man would not have a similar right?

Gary Siniscalco: Why would a man not have a similar right?

Floor: He doesn't get pregnant. She'd have to push somebody out of an office job.

Gary Siniscalco: Oh no, I'm sorry. True. Assuming that there was an available vacancy that she could adequately handle. Certainly, you're not required to displace a male or another woman, unless you did that in another context. You're quite right. Did everyone get his point? That you can't just assign someone to non-patrol duties and thereby bump someone who was already in a clerical capacity. We're assuming in terms of reassignment where there was a vacancy.

Every police unit, or every police department or every employer, as far as that's concerned, needs all the people he can get to work. So, if you displace somebody in order to keep this woman, it automatically becomes discrimination in this case.

No, forget displacement—if there's no vacancy....

It can happen that way in real life, though. You can sit and say forget it, but it doesn't happen that way.

If, in fact, there is no available job, let me put it that way, to which the person can be reassigned....

You don't understand what I'm saying. I'm saying that if you had a male in the office and a woman out there is pregnant, even though the male was doing the job and had the job and seniority and all the other things that happen on any job, you'd automatically put the woman in the office and put the man back out on the road since there's a possibility that she'd abort while performing active patrol duties.

So, the man would then be assigned to patrol duties. How would that be discriminatory?

You're discriminating against him because he actually had the job in the first place, and due to the fact that she was pregnant, he would be assigned to patrol.

But is that discrimination against him because of his sex?

Sure.

Supposing a female was in that job. Wouldn't you do the same thing?

Probably, and this is discrimination.

But it's not discrimination in violation of Title 7. There's a difference between unequal treatment as a general rule, and Title 7 discrimination.

Suppose you have to take that to court on the other?

That could go perhaps in violation of personnel rules and policies, etc. I don't know.

I'm not sure I understand the hypothesis you made. You have a woman on patrol and a man in the office and you're saying when she gets pregnant, you'll switch their places?

Just good management practice—you'd do this because you've got illnesses, you've got an opportunity for her to get injured and turn right around and sue you for state comp or whatever else that happens.

And you're suggesting that the man doesn't want to be on patrol; he wants to stay at his desk job where she is going to be. All right, if he wants to stay there, what Gary is saying is that you don't have to put him out on the road—but let's talk about what the law required you to do and then find out if the burden really is this sneaky law that's making you live by your real rules, or whether the real rules can be controlled by you. I think the real rules can be controlled by you if you set up a pattern that says if she's going to go off the force, either work there in the office or have to leave, so that you replace her with somebody else, you can do that too. You can leave the man at his desk job. She goes off the force because there is no available desk job, right? You've decided you're going to leave the man there because it discriminates against the man. So your rule is that unless he wants to go out on patrol, he can stay right where he is. Now that means, as Gary said, that she can't go to the desk job, she has to go home.

And you replace her with another patrolman.

Where do you get him?

I think we're getting into more than just a response here. That's the kind of thing maybe we should pursue a little on a specific issue. Louis does have a response that he'd like to make in this area, and there are other people who might want to get into the broad area that was covered by the panel.

Let's get Lou's comments, but one point I would like to make in terms of what Stan was already saying, what would happen if a patrolman broke an arm skiing, or on duty, or got ill, or something in that capacity? What type of replacement policy do you have in that regard? Whatever your replacement policy is in that regard, is the policy you must apply to pregnant women.

Mr. Taylor: That's exactly the point that I was going to make. If you're going to say you're not going to hire females because the incidence of pregnancy from 21 to 26 is greater, and everyone who is female in that category you will not consider for employment, then that's just blatant discrimination, and to look at it on that basis-- and I was going to ask that same question. He did ask that. But look at the other factors. There are birth control devices. There are many females who just don't want children. And if you look at these factors, then you don't just exclude a whole segment.

There are a couple of points I did make this morning that I would like to be sure you understand if you are going to be the recipient of some funds. I told you in the program you need to formulate, implement, and maintain. Sub-part E does not require an affirmative action program, or timetables, etc. Since I've had to live with these guidelines for some time, I ask you a question--after you identify any employment problems, if you have any, and I won't say that you do, but if you identify that you have some disparities, and the second point of those guidelines say that you implement and maintain, how do you implement any program without some form of timetable? Now, the guidelines don't really say you need it, but how do you implement without setting down some method of getting from point one to point two? Secondly, a problem that you might have, and I need to tell you, is that when you submit your certification and you have a grant-writer within your organization who certifies that a plan exists but you have a personnel department and a civil service commission who make decisions that you as chief or whatever your capacity is, have no control over, then you're going to have some difficulty implementing a claim. Even though you've certified, you have no control over personnel policies whatsoever. And that's something that you're going to have to try to get your house in order. I have begun to see where the guidelines under Sub-part E have been utilized for a whole governmental unit. In other words, because the guidelines are more stringent than any other agency that I know of, to be a recipient of LEAA, most governmental units have taken those guidelines and generated that data and established an affirmative action program around those, and they will meet every other governmental agency requirement. Now, if you want to take your HUD requirements and think they'll suffice with Sub-part E, you're in trouble. That

just will not work. I only wanted to make those points so you'll know that I've told you the good points and the bad points. If I'm going to be a consultant, I'd better tell you everything. But please don't use them as a reason not to come up with an EEO program.

Are there any other questions?

Question: I have one. Everything we've talked about here has been related to policy and rules and regulations. Suppose it's a statutory requirement that a person be a certain age, a certain height or a certain weight in a state?

Mr. Taylor: The same rules would apply if it's a statutory provision and the statutory provision leads to practices which, when treated as policy matters, do not violate Title 7. That is to say, if you were implementing them with regard to statutory responsibility. If the statutorily mandated practices do violate the federal law, then you have a problem. Now, I don't mean you individually, but the statute itself is in trouble. This is rare, but it has happened. In that case, under our Constitutional system the so-called supremacy clause would have the state statute that is in conflict with federal law, stricken.

Question: Does Title 7 only apply to state and local agencies or does it apply to the federal government as well:

Mr. Taylor: You mean to the federal government's own hiring programs? It does not.

Question: They were telling me about the women I had to hire, and all the good things that would happen to me. Years back, we had to take the race a person was off his driver's license because that was discriminatory. Now....

Mr. Taylor: Why don't you raise some cain about that? I fail to understand, as a federal official, frankly, why it is that you don't raise that more often. I think that the federal government's position with regard to its own employment practices, has some very serious deficiencies, and I've written a number of memoranda for it. By the way, let me say in my own defense, that we and EEOC are so-called external compliance agencies. We don't have responsibility for internal hiring policies of the government. We just don't have that authority. So I find myself free to be as critical of the federal government since I'm not criticizing my own office. I don't have the responsibility, as you ought to be. But I tell you, I think that again, looking at it from your viewpoint and without trying to put up a phony argument or defense on behalf of the federal government, I would be raising those questions. I

don't mean just in the context of litigation. That would be the hardest thing for us to deal with. But I certainly would, and I suggest this to all industries I deal with, find it appropriate for you to be demanding of any agency with whom you deal, to know why it is that it may be requiring more of you than it does of itself. And frankly, right now, most federal agencies do require more of people outside the government than they do inside. I'm completely in agreement with you and I'm urging you to make your sentiments known to the government.

The federal government is covered by Title 7 only in a minor sense. Neither we nor the Department of Justice have any administrative or court enforcement authority over federal government discrimination. But, by virtue of an amendment in 1972, Section 717, the Civil Service Commission has jurisdiction over this as a Civil Service proceeding. Then, if the administrative proceeding fails, the individual can go into court. But neither we nor the Department of Justice can sue the federal government.

There is no guideline set down, say, for your agency as to whom you have to hire, how many people they have to be, what group they have to come from, etc.

No, let me interject this point because I was inviting your criticisms and acknowledging their truth. There are two things that have to be said in addition. One, if it's true that there are not the same kind of rules, but I don't know of an agency in the federal government that doesn't have an EEO program. Now, I'm not suggesting that there are no rules, and I don't want to be seen as suggesting that. What I'm suggesting is that it's perfectly appropriate for you to ask how well they're being met and what the rules are. Are they published and can the public know what they are? The answer to both is yes, that is to say, you can know what they are if you ask. Yes, it is relevant for you to ask in a sense of general equity as to whether greater demands are being made on you than on the government. And yes, it seems to me that if the public doesn't monitor what these agencies, our own included, then nobody will. But, there are rules. There isn't an agency that doesn't have them, but it's perfectly appropriate for you to hold our feet to the fire. Secondly, I think it's only fair to point out, although I don't want to make this a political discussion, that the increase of women and minorities in the federal government has been very dramatic in the past few years. It was so appalling, just a few years ago, that there was no way to go but up, and although I don't have the figures in front of me at the moment, I have on other occasions referred to them. They are publicized—they are public information. The Civil Service Commission can verify them. The fact of the matter is that minorities have increased and women have

increased dramatically in the federal government in the last few years. So, I don't want to leave here with the impression that I'm agreeing that there's no movement. In fact, it has been dramatic, but it started from zero just a few years ago—almost zero—it wasn't that bad, but it was very bad and it is getting better. In that sense, the federal government will have a good defense to many industries with whom it deals in terms of the progress and movement that has been made. It may not be that there are goals and timetables imposed of a same kind as in industry, but the fact is that in the last four or five years, the government has shown a sense of movement. I believe that you will find as a very practical, legal matter, that if your department shows a sense of movement, even if that movement is not within great, well-defined court ordered rules and regulations, agencies like EEOC, the Justice Department, they lay off such a department. They say, "Let's go after the bigger fish, or the fish who are doing nothing." And those who are making movement voluntarily ought to be in second place. That has always seemed to me to be a very practical, pragmatic reason for an agency to get moving on affirmative action pursuant to LEAA guidelines, or guidelines that are constructed by the government or itself, rather than waiting for the cops of the federal government or itself, rather than waiting for the cops of the federal government to come after you.

Question: I have one question. We talked about hiring these different people. What about after they're hired, especially in uniform. How far can we go to maintain appearances? What I'm talking about: Are your clothes pressed, your shoes shined, your hair cut, that type of thing. How far could you go to maintain appearances without any particular kind of decree?

Mr. Taylor: If I understand the question, I think the answer is easy. You can go as far as you believe it is important to go in terms of an honest judgment as to the necessity for appearance having an effect on the police officer's job. In other words, as long as you are insuring that appearance that you require is an appearance which has a relationship to effective law enforcement, then go ahead and set your standards. Obviously, our point is that those standards, once they are set as I have defined them, apply equally to whites and blacks, to women and men, to minorities and others, and that they not be applied differently. And secondly, that you not create or apply new standards in order to reach a minority group police officer. In other words, to try to discipline as a guide for getting rid or disciplining an officer. If you're really setting your standards with regard to a view toward effective law enforcement, then I see no reason why you can't go as far as you need with that in mind.

I think there could be excesses. I can imagine excesses, but I suppose that you're not proposing excesses. Just to make some specific comments on that, let me throw out three examples of what I think you mean. Number one, a black employee comes in wearing a dashiki and says, "I'm going to start wearing this now rather than a uniform." Can you require him to wear the uniform? What do you think?

I think very definitely he would have to wear the uniform.

I would think so, too, because that uniform is an integral part of the job, that is the appearance as a police officer in the uniform, and certainly the requirement that one wear a uniform. Let's suppose you issue a regulation saying no Afros, only straight hair. Do you think that would be lawful?

I feel that we would have to draw a line somewhere because of the fact that we do require police officers to wear caps.

So, then, perhaps your rule would not be an absolute prohibition against Afros, but a requirement that whatever type of hair should be worn, a patrolman's cap could be kept satisfactorily in place. For instance, perhaps someone with a fairly large Afro, the cap would not adequately sit on his head right now, so you might require a closer cutting. But clearly, no one here would suggest that a flat prohibition against Afros would be appropriate. And that's what we mean by the rule season, thinking of it in terms, as Stan says, of what you need for successful performance on the job. Think of it in those terms and you can reach very reasonable and flexible rules, and it just depends on the fact situation. We've had a case with beards. And in one case, a bearded salesman. The sales force didn't want any beards. And the Commission held that was unlawful because there was no showing of business necessity. Or long hair. On the other hand, if you're in a food manufacturing or food service firm, where the health regulations require either short hair or the wearing of a hair net or a beard net, certainly that would be an appropriate requirement for the safety and efficiency of your operation. It depends on what you're talking about.

I was just going to make an observation as was made to me at one point and that is that as the styles change with regard to men generally, they seem to lessen the tensions that exist of the kind Gary was speaking of. Someone pointed out to me the other day that there was a time when professional football teams would not tolerate players with hair hanging out of their helmets, and beards—you could be tackled by them, I suppose.

And that certainly—having played high school football, made a lot of sense to me, but every year the hair is getting longer on some darn good flankers, and I suppose that as that becomes more acceptable, in circumstances like that, the tensions that exist, the fears that exist, that it is seen as disrespectful to society as a whole or that it may even be a bad reflection on the department, they tend to lessen, and therefore, the community relations-type people in the department are able to work them out more. We have found that to be the case in many police and fire departments.

To begin our program today, we have a speaker who represents, in fact, he is President of the Board of Managers of the Combined Counties Police Association, Cook County, Illinois. Mr. Flood will give you some further background on his experience. At this time I would like to introduce Mr. John J. Flood.

Mr. John J. Flood: Thank you very much. Gentlemen, I have to catch a flight to Chicago as I have a very important meeting this afternoon. Basically, as far as my background is concerned, I've been a police officer for 14 years. I have served in an administrative capacity in the Department, from which I am presently on leave of absence. I am a full-time President and Executive Director of the Combined Counties Police Association, which is a police union in the state of Illinois. We represent approximately 1,600 some police officers, 98 percent of which are patrolmen throughout 40 different cities; 2 county police departments in 3 different counties in the northern half of the state of Illinois outside the city of Chicago. Basically, our organization wrote the police labor relations history from a union standpoint in the state of Illinois. We collectively bargain with municipalities; we were involved in strikes in different municipalities of police departments. The organization of which I am President, I founded in 1968 with other police officers because of the inequities that we felt were within our police departments. At the time we founded by organization, of someone would have told me that I was forming a police union, I probably would have said, "No, we're not doing that; we're forming an Association to get together." I would have been, through my own lack of education on the subject of unionism, psychologically like a lot of police—anti-unionism. So, if somebody would have said, "Are you forming union?" I would have said, "No." If somebody would have said, "Would you walk a picket line?" I probably would have said, "Forget it, my friend. It's not my style. I'm a police officer. I'm not going to walk a picket line." And certainly if somebody had asked

me if I would strike as a police officer, I undoubtedly would have told them "No." It would be the furthest thing from my mind, but certainly when we formed our organization, it was the furthest thing from the minds of the men involved. We wanted to have a voice on our economic, on our job conditions, our departmental policies, procedures, general orders, and of course, our yearly wages, and what our fringe benefits would be. We wanted to sit down and negotiate these things.

Police labor relations from a union standpoint is a rather new thing. I would say from my experience in this particular field, and I think I have a lot of it, that if you gentlemen think that sooner or later you will not be faced with your police officers asking you for collective bargaining rights, I think you would be making a mistake, because you would be faced with it. You're basically state police departments, as I understand it. The state of Illinois, the Illinois State Police, which is approximately 6,800 some odd troopers, the former superintendent of state police was a personal friend of mine. He used to be my captain. The state troopers are not organized at the present time, but I certainly think that they will be organized. One of the biggest problems of organizing state troopers from a union standpoint is the geography. The men are spread out so much that it's difficult to get them all together at one particular time. But, from a police administrative system itself—I am a good administrator; I'm a benevolent fellow; I take care of my men; I listen to them, etc. If he doesn't believe that his department is organized, I think I can honestly state to you as a fellow who has been involved in this and has been involved in a lot of battles, that if you were to give me the patrolmen of any police department and let myself, my staff, and my attorneys address the rank and file of your police department and we address 100 police departments, we'd organize 90 percent of them, like that. We'd organize them basically on logic. As far as myself as a police union leader, and you gentlemen as administrators, there really isn't much of a difference in what our goals are. If you, gentlemen were to sit down and say what you think is needed for the law enforcement profession or what you think you need for your departments relative to equipment, education, training, pay, whatever you think you need—if we, from a union standpoint, were to sit down we would come up with basically the same train of thought of what is needed in the profession than you gentlemen would. Possibly, as I see it from my discussions, there is a difference in the method of how to go about it.

Now, you gentlemen, when you become captains or majors or superintendents of police departments, you are managers and you're within an organizational structure. In the organizational structure of a state government, you're part of the management of the state police department. At municipal levels, the superintendent or the chief of police of

the city is the interim management to the mayor and city council of that city. He's the head man of the police department. They have a head man of the fire department, and on down the line and his job is a managerial position. The very nature of the position that you have assumed by accelerating into the rank of superintendent or a top administrative position prevents you from representing two parties. Your feelings definitely will lie with the profession that you have come up through as a law enforcement officer. But if you serve the mayor of the city and you're the chief of police or the superintendent, you're serving the governor or the state legislature. The chief of police of a city might go into his city manager or to his mayor or city council, whoever he feels would get the economics that he needs for his department. When he goes in, he will explain why he thinks he needs certain things. But I've talked to chief after chief and I know they have a difficult time in dealing with their city managers and with their mayors. And certainly some state police departments that I know of have extremely difficult times in getting anything out of their legislature for what they need. So, the chief goes into his city manager or his mayor and he says, "This is what I need." And the mayor or the city manager says, "This is what you are going to get. This is what we're going to give you." By the very nature of your managerial position, as a chief of police or a top administrator, it is not your job to go back to the rest of the department and say, "Fellows, they're not giving you what they should be giving you. You're getting hurt, or getting fouled up," or whatever terminology you want to use. It's your job to go back, by the nature of your position, and sell the policies of top management. And in most cases in most cities that we deal with and from my experience with police officers in other places, the chief of police by and large serves at the pleasure of political officials. In some states it's a little different, where the chief of police has a little more security of position. But certainly, if he doesn't do what they tell him to do, but in the City of Chicago or any city of the state of Illinois, if that superintendent doesn't follow what the mayor and city council tell him to do, he's no longer going to be superintendent. And he cannot represent management and represent the men. So what the union does is represent the men.

Now a union—a lot of people sometimes give a psychologically bad connotation to the word. We live in a union. The state of Nevada is a union. The City of Reno is a union. It's a union of people. It's a union of government. No police administrator or political official or educator could ever convince me that if 90 to 90 percent of the patrolmen within your police department were to get together and unionize, that those men were getting together to put their thoughts together collectively on what they think they need for their profession, to have a voice would be detrimental to our profession, or detrimental

to the department. Now, unions have their ills. Any large institution has ills. We are police officers, for instance, will hear about corruption a lot of times. We don't like to have everybody looking at us and saying we're corrupt because there's corruption among our ranks. A union is—sometimes the best terminology or analogy I ever heard of what a union is—it's something like a woman. They're hard to live with and they're hard to live without, but if you had your choice, you'd live with one. It's going to be the catalyst, because when the chief goes in, and he's turned down by the city manager on certain just requests, once again, by position, if he wants to keep that position, he cannot go back and start complaining among the troops, so the mayor's going to call him in and get rid of him. But when the union representatives go in, they're representing their members. When I say to you, we represent 1600 men, we represent them. Now those men follow us and they listen to us and they don't do it stupidly. They do it intelligently and of their own volition. Nobody leads them. Nobody's a big leader who says you have to do this. Because if somebody believed that, then it would be saying that the patrolmen of the police departments are basically stupid individuals. That's saying that they could be led. We give them a gun, we give them one of society's largest jobs to do, and responsibilities, and send them out to do it. Then we say to these city officials and chiefs of police that they don't have the intelligence to make the choice as to whether or not they want to unionize. When they unionize, they're getting together to voice their opinions collectively.

Now in any police department or any organization so many men are going to become managers. You can take a large department like Chicago and the ratio would follow down to the other police departments that we represent in Evanston or Skokie which are fairly large cities outside the city of Chicago. In the City of Chicago Police Department, you have a superintendent of police, and he has maybe two or three top fellows under him who basically make the decisions for a 12,000-13,000-man police department. You've got the mayor and the superintendent, because the mayor in the City of Chicago is very strong. The council will do whatever he wants them to do. The mayor and superintendent might have two or three top fellows around them who are advisors—there's other men within the rank structure, certainly. But the mayor and those two to four men, based on information that might come up through the chain of command, which never works too well, make the decisions that affect 13,000 some-odd men. For a department like Chicago where you'd have say, 8,000 patrolmen, 4,000 some-odd rank, those 8,000 patrolmen comprise the rank and file. I look at the sergeants, captains, lieutenants as your management or the management of that superintendent as his deputies and his captains. But those 8,000 patrolmen can certainly elect among themselves somebody

who wants to represent them; to go in and present their position, and to go into the municipality, because we, with the union position, can go forth to the municipality and if the city is not offering us what we should get relative to economics, fringe benefits, equipment, or whatever else we think that we need, and they say, this is what you're going to get. That's it.

From our position as a union, we say, that's not acceptable to us. We are willing to negotiate in an intelligent and sophisticated fashion. When we go in to the bargaining table, or when our attorneys come in, they don't go in in a foolish way, they don't go in with some sort of guttural terminology— we know what we're talking about and we're very well versed in what we want and the background of why we should have it. But we will not take no for an answer if they're not dealing with us in a proper fashion. So when you try to negotiate and the city says no, that's it, what do you do? Some people say go to the newspapers. You can go to the newspapers because we went to them. People say go to the people, get petitions. So you get petitions and you present them to the politicians, but the only time they care about petitions is at election time, so you have to fight. You never give up anything. The union represents power. That's what it is. It's a power base; a base to bring men together; to move collectively against the city if they will not deal with us in good faith. It's protection for our membership and a projection of what they want for their future needs. Most chiefs of police that I've ever dealt with have a tendency to look at a union as some sort of usurpation of their authority. Nobody can take away your position or your title, and nobody can take away your right to make a decision on what you want to do. If we come forth on issues, we deal in a responsible fashion. We're able to resolve problems. I, or my staff, have never walked in with some illogical position as to why a patrolman should not be fired or disciplined, because basically when you deal with the union as administrators, you're going to be dealing on matters of discipline, general orders, rules and regulations, policy and procedures, because you don't have the authority to give the money to fringe benefits and other things that comes from the politicians.

We're not going to make ourselves look foolish. If a man is wrong, he is wrong. Say a patrolman has been on the job 10 years, basically doing all right. Maybe he had a couple of beefs, a few minor disciplines, and all of a sudden he fouls up. Sometimes an administrator will over-react and want to fire him immediately. You're dealing with that man's career, his life, everything he has. Frequently political taint or power will come into a situation. The mayor is saying, "He's causing me a lot of heat.

We've got to get rid of this guy, etc." The union might come in and take a position. Now we have gone forth and agreed to have men fired from police departments that we didn't think met the standards of the profession and the department. The chiefs can't do it by the very nature of their position. They can't represent management and they can't represent the men.

I want to give you an idea of what happens when we organize a police department. We'll organize 90 percent of any police department around. I honestly believe that. We can sign up a department in two or three days. No problem. Our dues are \$96.00 a year right now. We've made tremendous gains. Once we organize, we have to go out and sign up the men. That normally takes a couple of meetings. Then we approach the municipality. We don't approach the chiefs of police because they do not have the authority to make the decision as to whether or not we will achieve recognition, and this is where the top government entity decides whether they're going to recognize the right of the men to organize and allow the representatives to come in and negotiate. We were involved in 8 strikes in different cities. The causation factor of every one of those strikes was the lack of recognition by the political officials of the right of those men to have an organization. What's going to happen in the field of police labor relations is it's going to continue to grow. Don't make the mistake that management in private industry made years ago that unions were going to go away. Unions are now an accepted part of our democratic society—labor and management. We've got them time and one half and fringe benefits they never had before. We're able to achieve these particular things, but it was not without a total fight. When we organize, we're going to have a strong power to have a voice for us. I think we should organize nationally, on state levels, and have a true organization. By the way, gentlemen, when you're with the IACP, the purpose of this thing today—the IACP is a union. It's your union. You're represented. It functions in many ways as we do. So, I'm going to cut short here. Are there any questions at this particular point?

Question: When you go into a municipality to organize, what kind of a pitch do you give the troops there if they have these fringe benefits and pay equal or better than some other groups that you have organized?

Answer: First of all, the departments that formed our organization were the highest paid in Cook County, not the lowest. We have organized police departments where fellows—patrolmen—were making over \$15,000 a year. These departments at the time were making about \$1,000 or \$2,000

more than what we had negotiated in other places. They still want a voice, and we don't have any problems. In the State of Illinois, the average patrolman with fringe benefits and everything else, is making between \$14,000 and \$18,000, more toward the \$18,000 figure. That's good money. But a laborer digging ditches on a construction gang is making the same, if not more. Take both sides of the political spectrum—they both say that police officers should be making \$20,000 a year. If you take these studies on the subject, they want college educated police officers—you're going to have to pay them high money. How many administrators here can walk into their state legislatures and say, "I want \$20,000 a year within a three-year period for my men." How many can do it without being looked at like go to hell, get our of here. The unions have to be a catalyst and go in and get it.

Specifically to your question, we have no problem organizing the fellows on the issue of money. Take the American Medical Association which is the most powerful union in the United States. They're making \$30,000, - \$50,000 a year—what does the average doctor make? Why do baseball and football players unionize? Because they needed more power. The biggest problems with police unionization are: 1) the leadership has to be good and intelligent and responsible. If you have poor leadership, you as an administrator are dealing with poor union representatives and you're going to have the same problem I have when I go in and deal with a poor chief of police; and 2) the leadership and membership must remain responsible, because it doesn't matter who you are dealing with, when you start to negotiate for them, they want more and more. If the leadership and membership ever get irresponsible, they're going to have a lot of problems. We try to use every alternative before we go to a strike. It's the last and ultimate action. I don't want to strike and the men don't want to strike, but if they ever get frustrated to that point, it could happen. I don't think there's such big chaos to strikes. The position is that when police officers strike, they're leaving the public open to be raped and robbed. I just want to make one point—I'll use Chicago as an example. On any given watch, any shift, the City of Chicago—and this is another reason why I don't think management should belong to the bargaining unit. In Chicago, on any given shift, you're lucky if you have 1,000 men on the street. So, if it came to a strike when 8,000 patrolmen walk up to negotiate, is that city left unprotected? No. The mayor, management, and superintendent all know the strike is coming and they're causing it as much as anybody else because they're not bargaining in good faith. All the mayor and City of Chicago have to do is turn around, take their 4,000

rank and put 2,000 men on one 12 hour shift; 2,000 on another 12-hour shift; and they have 1,000 more men on the street than before the strike. When the airline pilots go out on strike and management starts flying the planes, that ratio of management to labor holds true. In every city we ever struck in, they had more cops on the street during the strike than before. The politicians with the press relations were trying to make us look bad, with that "You're leaving the public open to be raped and robbed and chaos" and what the press does is play it up. They played up a bank robbery or a stick up more so than when we were on the street. And banks get robbed and there are stick ups every day, whether we're on strike or not. I would be against the type of strike where the city is totally unprotected---where management strikes too, because that really would be chaos. That's why I believe management should function as management and not belong to the union.

Question: What are your goals for the union?

Mr. Flood: You might think I'm lying to you, but my goal is to see the day the police stand up and go in and get what they justly deserve. When they meet the standards that we've been talking about for years; when they can perform the function in the proper fashion. That's what I honestly believe in. Now organizationally, I'd like to see the country get together. I'd like to see all the patrolmen get together. But there's a two-fold problem from our point of view 1) Some guys might be money oriented. They might not be responsible union leaders; and 2) you'll find other guys who are power oriented. Well, the hell with making the money and making the title--let's go out and do the job for the men.

Glen Murphy: A union is anything that walks like, talks like, or acts like an organization that is involved with economic packages, or any of the factors of employment. I don't care what it's called. If it acts and talks like a duck, it is a duck and you'd better start treating it like one. That doesn't mean that a union is held in great disdain. Some of the states that are represented here have statutes that say that you cannot belong to a labor union. Oklahoma has a specific statute that you cannot belong to a union or any labor organization. That is blatantly unconstitutional, because there are constitutional rights to join labor organizations. The question that has not been resolved but is before the courts now is may they join organizations that are not homogenous or not all police? That case is before the federal and circuit courts.

One of the reasons that I even bring up this constitutional issue on the state statute is this is one of the things that you have to do with that type of state statute. All you have to do is have an Irishman with 8 kids get in trouble and suspend him without a hearing and without pay. That's the cause. Then you've got the martyr, and the next thing is John Flood walks in and you've got yourself a union. A union really needs causes. The more causes management gives them, the more likely they are to organize. There's always the problem of the national versus the local unions. There is a great divergence, in the opinion of labor leaders in the U.S. of how close we are to a national union. I don't think we're very close to a national union at this time. There is too much fragmentation; there has been no real leader in the labor field as yet. There are six or seven who are vying for it, Flood would be among those. There are a lot more problems than meet the eye in a national union. One is the officers themselves tend to draw away from a national union. That doesn't mean that we can't have one. My concern is the whole issue— is a union imminent? And I would say right off, "No." It's not necessary that the department have a union. Let's consider some of the ramifications of it. First, don't ever believe that the economic issue is the method through which you will get a union— the only issue. Economic packages are the most short-lived things that you can give to employees. They change and fluctuate and the requirements change very rapidly. I don't mean that economic packages are not important at all. There are two state police agencies in the country where the patrolmen on their departments qualify at the poverty level for food stamps. If I were a labor organizer, I don't think I would have a lot of problems going into those states and organizing those troopers. That's a little bit demeaning for a guy who's working full time— to qualify for food stamps, and interesting enough, they generally do not file for them. A thing that I think you ought to consider is, to my knowledge, neither one of those states has management of law enforcement or said one single word to this day about trying to rectify that situation. This is what John Flood was talking about when he said management ought to contemplate itself for awhile.

In most agencies that we've surveyed over the last three years, we have found that the people at the level of administration have no knowledge of what the recommendations of management are on the economic factors that they are going to submit to the council or legislature. That means they don't know what management wants to give them. Until it comes out in a report someplace that this is what has been recommended, they haven't any idea what you as the executive really have recommended. This is an important issue and labor organizers use it as an issue of what does your boss want to give you. This also gives the labor organizer the method by which he can use the famous end run. He can go around management

directly to the legislature, because he know where the bait is cut for the fishing. The economic issue is not as important as others, but the whole problem with management in this area is that most of the level of administration do the men who work for you know what your economic recommendations are? Many administrators say I can't do that because the governor or the mayor is going to give me what I want. I don't think there's any problem with that as far as the men on the department are concerned—they recognize that. But there isn't anything more serious than ignorance of an issue.

Another major problem that we find when we see it has to do with whether a union is imminent. We look at the issues of management capabilities versus union capabilities. How many of you in your representations with your employee groups have available to you in your attorney general staffs or your city council staffs, a person who is really knowledgeable in labor law, or in labor relations, from the legal point of view, let alone the management problems that are involved? We have seen that in 99 percent of the times that we've gone into a department and analyzed how a contract was developed, the ship was given away in the first contract, generally in the one clause, a past practices clause. If it does into the contract, if a past practice clause gets in there in your negotiations with an association, you have many guys—I've had testimonials of guys who say on my past practice, they took me on and I couldn't even transfer a person without approval of the union. And a past practice could very well do that. What is management, is another issue.

Let me give you a case—have you ever sat down and contemplated what management is in your department? Have you decided for your purposes what it is. John Flood says he doesn't want anything over sergeants. If I were a manager, I'll be darned if I want to give him sergeants. And if I'm going to give him sergeants, I'm going to get something back, mighty valuable. The State of Minnesota in November—the whole state, for labor relations purposes, lost sergeants, entirely. Sergeants are no longer part of management. You ought to read the report that came before the Labor Relations Board in Minnesota. The Minneapolis Police Department and several other police agencies that were present for that hearing on trying to determine what was management in their department, could not agree. People in giving testimony within their own agencies could not agree on what was management. What is management? Is a sergeant part of management? In a state police agency, I submit that if he isn't part of management, then you're in a lot of trouble from 5 pm to 9 am in the remote parts of the state that you have to handle. And one of the things that management might want to look at is what the roles are?

I'm not saying that you have to say a sergeant is part of management, but I am saying that you have to determine where you think management starts. Then you can't just say well, a sergeant is a manager now. You must, and this is what happened in Minnesota. They didn't hold a sergeant out—one of the issues that was involved--they didn't even dress him like part of management. We don't make him look like management until he's a lieutenant, in many agencies and put him in the white shirt or give him the gold or silver badges, whatever. He is given a different accouterment of office. Does he have the authority of transfer within his supervisory jurisdiction? Does he have the authority of suspension? Now that doesn't mean that there's no review the next morning. But does the sergeant have the same type of authority that a lieutenant or captain would to make an administrative management decision? In the Minnesota cases, they would not. What they had turned the sergeant into was a glorified patrolman. This can happen without a union. You don't need a union to have this type of issue made.

What are some of the other issues that are involved if we are going to have unions or if we are not going to have them? It's been very difficult for me to understand that people view labor-management relationships as a game. This is exactly the way the labor representatives, the qualified labor law representatives, in the country feel it's a game, not only in law enforcement, but in any area of labor-management relationships. It's the habitual tide washing in. What am I gonna get? What are you gonna give? Management tends to say, "Hey, you are jumping on some of my management prerogatives." Well, gentlemen, from a labor relations point of view, there are no management prerogatives until you stake them out. Until you stake your claim to management prerogatives when you're talking to a labor representative, it is not your prerogative, it's open to negotiation. Many people historically have made mistakes by putting in their contracts, listing out management prerogatives. If I were putting together a labor contract for you, all it would say would be one simple sentence—all things not specifically provided herein are preserved and reserved to management as management rights. That's the way you enumerate management rights, instead of falling into the age-old game of the attorneys saying, well, chief, let's list all the things you want to retain as management. Because sure as hell, you're going to miss a small one. So, it takes a different way of looking at our labor relations issues.

I've said that economics is not the most important issue. In my opinion, and I'd like you to reflect back on what John Flood said today and every labor representative that I've ever talked to in the last three years, the issue that they all get back to is discipline—the disciplinary procedures

of a department. I really believe, and there are a lot of people who would disagree with me, that if the teeth were taken out of unions in the disciplinary issue, they would have a much more difficult time organizing departments. Let me explain what I mean by de-fanging the discipline tiger. If I'm a labor representative coming into your department, or if I'm a disgruntled employee within your department, and had talked to other people—and that's generally the way organization is done—the issues that I will get at are such things as "management doesn't give a darn about us," and then all I've got to do is take two or three issues and start proving to the troops that management doesn't give a darn. The minute it gets hot in the kitchen, where is management? For example, if you get a civil rights charge placed against you and the FBI comes into investigate and turns their findings over to the civil rights enforcement agency, how many of you have a representative from your department sit with your officer? How many of you have an officer there—a command officer of your department? For two purposes: 1) to defend him if he needs it; and 2) to prosecute him if he needs it. I suspect most of you have, but a young officer who gets a civil rights charge against him is a very, very nervous young man. I speak of that from experience, because I had one when I was in Michigan and I was scared. I'd be a lot more scared today. And nobody was there with me—nobody even asked me what happened. I just came from a disciplinary workshop in New Orleans that we're conducting. We have over 110 people there—110 agencies represented. Of the 110, only 11 agencies take that kind of interest.

Federal case law now says that you may not suspend a man without pay without a hearing. How many of you will suspend a man without pay without a hearing, summarily, the night he's suspended? A majority of the departments in the country continue to do that. Don't you think labor representatives know what the law is in that area? You bet they know. You will, the court says, have a hearing on suspension—only on the issue of suspension, not on guilt or innocence. Here's another issue where they say where is management when I need them. Here is a charge brought against an officer for an unreasonable use of force. The general practice is that an administrative charge is brought against him. There is a possibility of two other types of charges, one is civil rights charge and the other is criminal charge. And what happens to the administrative charge? The department holds it, pending the criminal action. Now, what for? Management doesn't want to make a decision, the labor representative says. They want to leave you hanging out there until somebody else takes the heat. I realize there are few cases, darn few, that you do not want to prosecute administratively because if it is a conspiracy or a vice-type issue, you may not want to have your hearing internally on your officer as it has to do with other charges against other

people. The issue is what you have determined within your department that really there is not an administrative violation. Many departments go to the prosecutor and ask what they want to do. I think that you as administrators have as good judgment as a lawyer who is faced with whether or not to prosecute the guy. What if the same person were working in the bank? Or a school? Let's make him a government employee, and you were investigating a case that had to do with child molestation. Would you not internally in many, many instances make the administrative decision that we're not even going to apply for a warrant in this case. We don't think anything of that. And yet when it comes to a police officer, one of our own, we don't make that determination, and the labor representatives can jump right on you. The other issue is that when you do have a charge, and the guy is going to come before you, does he have a right to counsel. Legally, no. There are no court decisions. In administrative hearings, the officer does not have the right to counsel. It's an administrative rule that you determine. Now, I'm being the devil's advocate—being a union representative, coming into your department, and I'm going to say, why should I counsel with you? Why can't you have a lawyer? If you were an average Joe Blow citizen, you could have a lawyer, but since you're a police officer, you can't. By the way, if you go into a contract, the first thing you're going to give away is a right to counsel in administrative hearings. That does not mean that counsel has any authority in those hearings. But do you preclude them? If you do it, really consider the ramifications as to whether or not you want that lawyer. Sure, he's a thorn in your side, but do you want him present or don't you? What are the ramifications if he is there? Can he do what that officer does or doesn't do? The answer is no. Let's say that he tells an officer, even in a criminal case, not to answer. You can tell him that he can tell him all he wants—tell him not to answer, and say, Okay, you're suspended, for the failure to comply with a lawful order, and you'll be sustained in the courts. Administratively, an officer must respond to any reasonable order of his superiors. There's a great deal of difference in the criminal and you may not want to say to him, answer that, if you want to prosecute him criminally. There are times when the administrator is the guy who's got to make the decision—which way do I want to go with this guy. Do I want to get him off the department or do I want to prosecute him criminally. And you must make that decision, and you can make it saying, answer the question. If the guy refuses to answer on the fifth amendment, say, find, dismissed—suspended.

These are the major issues, this disciplinary area. If some of these complaints are taken out of our disciplinary procedures, if they're equitable and reasonable, if we do not use the old military—even the military has changed, the uniform code of military justice changed considerably, that we are now studying departmental disciplinary procedures across the country and find that most of them are patterned after the old prior to 1951 military codes, instead of the current military code of justice. Most police administrative disciplinary procedures are more stringent in the procedural aspect. I'm not suggesting to you what you mete out as punishment, what I'm suggesting to you is the very procedure by which an officer is tried disciplinarily. What happens when the officer has an 1983 filed against him, you will all have a copy of a report that we've just finished on the 1983 liability suits that have been filed basically by ACLU in 1971 and 1972 and some of the dispositions on them. In the vast majority of those cases, the officers had to defend themselves; the city or state did not provide counsel. In a great majority of the cases, the officer, if he retained counsel, wasn't even reimbursed for it, even if he were found with no civil liability. If you had a police union—again, I'm the devil's advocate; I'm the guy coming in organizing and I say my attorneys will handle that for you. You guys as administrators get slapped with all kinds of lawsuits, and you get to the point where you just send it over to the Attorney General or sent it to your legal counsel, and they handle them and you never see them again.

A young officer on your department that gets slapped with a \$100,000 or \$200,000 lawsuit and has served at home, or he's left at his domicile with his wife. Even though it's a spurious lawsuit, and most of them are not successful, it's a traumatic experience at home. Where can he go for counsel? They're turning to the union more and more because management has not made available to them any counsel to work in this area, even line of duty type activities.

What are some of the other issues we are working with in the labor relations area? We talked at length about EEOC regulations and the updating of regulations within departments. This is another area—when is the last time that your department's rules and regulations were looked at? There have been 274 federal district court cases dealing specifically with police discipline in the last four years. If you have not reviewed to a considerable degree the disciplinary codes of your department, you have many of these issues which have been construed in your jurisdiction as unlawful. Are we dealing with the contemporary issues that are involved? This is one of the things that the unions are looking at. Hairstyles. Can you regulate hairstyles? Yes. You may reasonably regulate hairstyles, much more stringently than the gentleman who was here yesterday

said. The issue has been resolved for almost two years. And yet, I notice in many of the departments they still have some of the old regulations on hairstyles that will not stand the test of a court suit. And this is an issue that a union can use. I don't like long hair any more than you probably do, but for a young person just coming in the department, this is an important thing in their life. I think about sometimes, that if there were ever a lawsuit, that somebody would come out to the headquarters of the IACP and take the photograph of the past presidents of the IACP and submit it as evidence on hairstyles. If they just took a photograph—it's not back that many years—of the beards, moustaches, and the long hair of the past presidents of the IACP. If I were defense counsel, I'd submit it.

Another issue that we've had, and this is a rough one for many of us to deal with, that we're finding is more and more acute, and that's the sexual relations problem. If you want to call it sexual promiscuity, or whatever, it is an area where we've had it forever. I don't think that young guys on departments like the girls any better than we did when we went on the department. But yet, the problem that we have now is the issue of open sexual relationships between unmarried parties, married parties and, of course, between parties of the same sex. Many people get upset with the rulings that are coming out of the courts on these issues. I'm spending a great deal of time on this discipline area, because I think it's the area in which, if you're dealing with unions, you've really got to spend some time. The courts have held that there are two things in your disciplinary cases that you must show. You must show, if you are going to seriously discipline someone, that it had a bearing, or a direct relationship—not the magnitude of the relationship—but that it had a relationship upon the administration and operation of the department. And secondly, it must show the impact that it had upon the community or the community relations of the department. Now, most of us are very good at preparing criminal cases. I would submit that if we spent one half of that amount of time on preparing cases that are going on disciplinary appeal—you know, we complain about prosecutors that let some bad cases get to the United States Supreme Court. You should sit down and read 200 or 300 cases of discipline and you'll think, how did the chief of police ever allow that case to get up on an appeal, with no evidence—of not doing what the courts are asking. And again, this is in this management-labor, who's prepared. That defense counsel that John Flood is going to bring in knows the labor law—out of southern California, if you bring Steve Solomon in on an issue, he is well prepared in the discipline issues. Most of the deputy attorney generals that do this type of work, if you have any that go before your civil service board,

are not well prepared in how to prepare a case to go on appeal. So you lose an appeal case, and the union representative turns around to the troops and says, "See? See what I've been telling you. They're trying to foul you up again. They didn't really have anything on you. The charges were spurious, and they never should have been brought to court." This is the type of preparation that those cases take. They take administrative knowledge of impact that that has on the department. When you or your investigators prepare a case on an officer that there's a sexual relationship between two married parties—the people in the community even know that it was occurring? Generally, we don't even want to ask the people in the area that they lived in for fear that we're going to tell them and let them know that the police officer was involved in it, if I'm making myself clear. We don't want to let anybody know about it. Well, did they know about it in the first place? Generally, the investigation will be silent on it. I'm assuming that it's silent because the people who were investigating didn't ask what the impact on the community was. And the courts are saying that if the conduct of that officer did not affect the department, then, you don't have the right to discipline him on that issue. I frankly think the courts are right. If it doesn't affect the administration of the department, or the community relations of the department, then why are you bringing the disciplinary charge? I maintain that promiscuity does affect the administration and the community relations of the department, and you just have to have the testimony in the cases to submit that.

There's another issue that unions are looking at and again it comes back to discipline. This issue is the dual standards of justice that we're developing within our departments. Does a command officer in the department by an act of omission or commission get the same discipline as the officer at the level of execution does? Does a command officer get the same discipline, or is he even held perhaps to a higher standard of conduct for the actions of his subordinates. A trooper is brought up on the charge of excessive gratuities, whatever they are—of getting free meals, or free tires from a gas station. Was that practice commonplace within the department? And the question then is did the supervisor know about it? And the next question is should he have known about it? Not only that case, but any other case. If I'm a union representative and I'm working with the level of execution, I'm going to say, when is the last time you saw a command officer in this department disciplined? I think they get disciplined, although we'll know by the end of this current study. I think they're disciplined, but we put them under the bushel. We don't want that light out not only within the department—let me give you—I hate

specific examples, but an example of a department not far from where I live. A deputy chief drove a car out into the adjacent county to see his girlfriend, and wrecked the scout car while he was drinking intoxicants. He came back to the department, and I know that he got three days' suspension out of it. But a leave slip went through that the deputy was going to be on leave for the next three days, but do you believe that anybody in the department really believed that? Of course they didn't. What if that had been an officer from that department? What discipline would he have received? This is one of the things that unions are bringing more and more into the arena. Management is not taking care of you—they don't really care. It protects them, but that's what they're after. And sometimes when you read some of these cases, you wonder if that isn't the case. John Flood brought up one of the best examples. The commissioner issues an order, and pretty soon a lieutenant stands at roll call and says, "Headquarters came down with something else. The old man is in one of his moods." We all know this type of conduct on the part of officers is really insubordination. And this is something that labor representatives tend to point out.

Which brings me to the next issue, if we're going to withstand organized labor, how much input does the level of execution have into management decisions? This is one of the things that our system, that the persons we're putting on our departments now are used to. This is the educational system that we've put them in. We've put them in an educational system where the question that they ask is why. We've put them into an educational system where one of their activities is to participate, participate in the teaching process. My son is an 8th grader, and yesterday, he taught school, all day. And all of a sudden we bring him into our departments and put them into our paramilitary organization, and by the way, one of the famous cases, the Dwen case, suggests very strongly, and it's a very interesting case. I don't agree with the guy, and I don't agree with the case, but it questions seriously that police departments are paramilitary, and questions the concept of paramilitary as an organizational structure within police departments, which is an interesting concept that many of us should look at. And this is the society—they are taught to participate, all the time, and ask questions.

One of the fascinating bits of worthless information that I've learned in my life is the fact of information and education that people, youngsters, are submitted to today that were born since World War II. It is a fact that over 150 percent more knowledge has been discovered since World War II than was known in all the time of man. What our school systems are developing in these youngsters is the ability to handle a lot more information and to question a lot of things. If we're going to succeed

in not having union activities, this is one of the things that management has got to get involved. I believe it's a hair-pulling experience you've got to go through when you do anything by committee or by participation. It's much more difficult and time consuming.

Another issue that very few administrators have done anything on is in the whole area of use of discretion. You say what does this have to do with labor relations? It has a lot to do with it. In your department, an officer goes out to make an arrest, and you will admit that he has the capability of using a great deal of discretion. We tell him in recruit training, you have the capability of using a tremendous amount of discretion in making an arrest. You tell him that he can use that amount of force that is necessary to consummate the arrest, the common law standard. And yet, most of us haven't gone much farther than saying, but there are all types of circumstances within which, as a policy, we don't want you making an arrest, and you haven't attempted to enumerate. A good example is when can you execute an arrest warrant? In some states, you can't execute warrants at night; in most states you can anytime. Is it a reasonable thing for a person to execute an arrest warrant at 3:30 in the morning for three moving traffic violations? I don't think many of us would suggest that that's the thing to do, but the chief of police of a major city not many years ago did that against the person who was developing a union within his department, and I will quickly submit that that's one of the strongest unions in the country today.

What do we do on the use of discretion? The 1964 President's Report says administrators should develop rules on the use of discretion. The ABA standards on police function suggest something should be done on developing rules on the use of discretion, and so does the Commission on Standards and Goals recommend that something be done. Managers or administrators of departments should start to develop administrative rules that officers can follow so that the violations of your administrative rules are the tests that your officers are put to, not the artificial tests that the courts may establish for us. Many of you feel that police unions are starting to run your departments. I submit that the courts are starting to run the departments. They're running the departments on the basis of a pure fiat that you, as managers, are not developing the management prerogatives that you should, that the courts have been asking us to. For example, we recently finished a set of administrative rules for the State of Texas, and some of you have seen them. They're the first attempt on a statewide basis, and I think that they are subject to hindsight, but I think they're a good product. They were put into effect in San Antonio, and one was on the use of force. An officer was charged in a criminal and civil case on the use of force. The court in both instances used the administrative rules that were developed as the law,

the administrative law, and the officer was exonerated under both circumstances. On the other hand, if you develop an administrative rule that is more stringent to the law, your officers are going to be held to that standard of conduct, and may be civilly held to a higher level of conduct, although I think there's something we have to do on liability. The Chief Justice of the Texas Court of Appeals was at the program and has read these eight administrative rules that we have written. He and one of the three judges have both read the administrative rules and he told me last week that he is submitting in the Texas law that since that is the consensus of police administrators in the state of Texas, it's on a stop and frisk issue. That in his opinion, is what the administrative rules or laws in the state of Texas are going to be.

Twenty-seven specific times, the United States Supreme Court has said if you will develop some rules, we'll follow them. To his day, we haven't developed any administrative rules, nor have we developed them in administrative areas for the young guys who are coming on the department. What are the ethics of your department? What is an acceptable gratuity? We all sat here today, and I picked up a pen from someone. Under most, and I'll bet you, of the department rules and regulations that you have in your departments, if you go home, you have accepted a gratuity and are subject to discipline. But that's bunk. That is garbage, and we haven't changed it. We talk about policy-making in our departments, but what about the ethical standards of our departments. Have we sat down and developed an ethical standard that the young officer who is coming into recruit school knows? In most instances, the answer is, no.

In New York City, they have an ethical standard commission that has just written a memorandum, which I think is reasonable, on ethics within the department. If you take a bottle of whiskey from a guy who's been a life long friend, is that a gratuity?

This is what the young guys are saying—you aren't giving us any standards, and you're not defending us when we get in trouble, so we're going to be involved in something that will take care of us. That's a union. If management isn't going to take care of them, they're going to turn to a union. I think in our academies we've got to stop saying you've got a great amount of discretion. Administrators have to take the heat, and we've got to develop some administrative rules within our society on arrest, and search and seizure, and issuance of warrants, and stop and frisk, emergency vehicles—it goes on and on. One of the things that we have to recognize is that there is a use of discretion, and that the administrator has the right to exercise the use of discretion. Since he has that right, which is an old adage of law, administrators have an inherent power of administrative rule-making that law enforcement has never exercised.

Look at the FCC regulations. They're all administrative rules, and the courts adhere to them. Look at the administrative rules that are coming out of LEAA that you're going to have to live with. You as an administrator have the right, the inherent authority to develop and exercise administrative rules. They cannot be done on a nationwide basis. You can develop guidelines for administrative rules on a statewide basis, and I think this is valuable and one of the things that should be done. I think that the young people who are coming into the administration, when they are given some administrative rules to live by and are held to a standard of justice or performance, both in civil and criminal courts and administrative hearings, the courts will abide by that. If we haven't developed administrative rules, we can't complain to the courts too much for developing one for us, and that's what they're doing.

Now, what does all this have to do with labor relations? It has the simple thing to do with it, is that the people are questioning the very institutions within which they're coming.

I've got four young nephews, who are all Viet Nam veterans, all have gone on and gotten their bachelor's degrees in police administration, and have gone on to municipal and state law enforcement agencies. One of the most interesting things for me to do is sit and listen to them talk. They're not renegades by any stretch of the imagination. They're police officers in the state of Michigan. It's interesting to hear them talk about the standards of performance that are required of them. The Michigan State Police, which I think is an outstanding agency, has not really developed a standard of performance for the young troopers. There is a standard of performance that they have to pick up from court decisions, and so that is subject to all the problems that all of us have in trying to pick up piecemeal from court decisions. I think young people are looking for these types of rules, they're looking for participation in the development of the rules. I think it can be done.

We're having a four-day seminar in Washington, D. C. with selected chiefs of police, labor representatives, mayors, managers and union officials—a symposium on critical issues on labor relations. We have put together a series of papers that we have written in this area.

I think it's important that administrators take a part of their time with some of their command and supervisory staff and take a long look at what happening internally in your agency in labor relations, and how are you handling the contemporary problems. How are you handling the problems of communications—the grievance system isn't anything

other than an upward communication. And in this paramilitary system has been a dastardly failure in any agency if there isn't some vehicle for communications to come up outside of the rigid chain of command, for an employee to have a method of discussing some of his problems, prior to it becoming a serious disciplinary issue. You have to consider this, because this is another area that union representatives immediately look at. What method do you have of venting your grievances to the command staff, and all the inherent problems that it gives you as a police administrator. If somebody does circumvent the chain of command, what is the pressure upon you, how much of this can and should you have? Particularly, I think in state agencies where you are dispersed so much, I think state agencies have historically been superior disciplined agencies to municipal ones—that's my opinion—that piece of information is worth just exactly what you paid for it—nothing. Except in my view of looking at discipline across the country, I am sure that I will be sustained in that position. But I also see, especially in the eastern state departments, a tendency of this disciplinary system eroding. But many things have been able to be done in state agencies, in great part because of where the selection of where your people came from. Most of you had a great advantage, I might add. Your recruitments have generally come from the rural areas or small communities, have generally been from a middle and upper middle class. The other thing is historically, until now, the majority of your recruits—their families have not been directly involved in organized labor, and you're in the position about where municipal law enforcement was 10 or 12 years ago. That's a generalization. But what's now happening, and you ought to take a look at your recruiting process, where they're coming from, because this tells you something about the people you have on your departments and how susceptible they are to organized labor. As the labor movement moves, the recruit that you have come on your department is more prone to accept organized labor because he was brought up with it. His father was a member of a union, and his father wasn't a bad guy, or her father—I'd better qualify that. So they are more susceptible. These are patterns that you should be considering. In your level of execution, as the percentage of that type of recruit gets higher, their feelings toward organized labor are not going to be ones of hostility as it was in my age group and yours.

One of the things I brought along, and if you think this is crass commercialism, you're right. There's no place where law enforcement can go to a college or university and get an in-depth educational program, not a training program, in management labor relations. And for two years we have been trying to develop a program like this with some university in the United States—an educational program solely for law enforcement in the area of labor relations, where a department who wants to develop somebody who is knowledgeable and will work in this area could have an

education in this field. We're fortunate that we have developed such a program with Arizona State University.

Question from floor: Murph, I think that this expense (Arizona State University course) is minimal, because management is going to pay, either for the preparation or the lack thereof—I missed part of your presentation. I didn't know whether you discussed the New London, Connecticut situation that we found two years ago, but I think you ought to mention that and the fact that the negotiators were inexperienced, and what did happen as a result of that.

Glen R. Murphy: I have not gone in some detail on this thing because I don't know the level of expertise of the people we have here. I'll tell you one of the problems that you as police administrators are going to be confronted with in this area. New London is an example of what happens, and the IACP has in the past three years gotten itself involved in labor relations. We were called in and we looked at the situation. Here is a city who in their first contract had given labor—purely because the chief did not have knowledge of what was going on, nor did the city—has given all the rights to transfer, all the rights to promotion, seniority rates, and work schedules were outlined in the contract so that if you wanted to change a work schedule you had to go to the union. In Minnesota, if your association comes in and lays a group of cards on your desk and you pick them up and there's 51 percent of the department in that deck of cards, you have recognized them as a union. What does determine when you have recognized somebody as a collective bargaining agency, and what are the symptoms?

Well, you didn't make the point I wanted you to make in New London. In New London, Connecticut, an assistant city manager was appointed by the city administration to act as a negotiator. He was a retired Coast Guard Captain with no background in labor relations. He gave away all the sticks, because he was confronted by professional, well-trained negotiators on the labor side. And that's what we see happening.

If the state gets involved—if they've got a state labor relations board that is going to meet with your labor organization—there are two schools of thought—that you should have a representative there or you should be there. But in any case, no matter what you do, make sure one or the other exists, even if you have one of the best labor relations lawyers in the country come in to handle your case, he does not know the management of your department. It is a tendency of the city fathers to give away a management prerogative, rather than 2 cents in an economic package. Personally, I don't think you should be the person, especially

if you're in collective bargaining. I think there are too many things that are said or could be said that put you in the middle. You should be an impartial person who stays out and manages the shop, but whoever you put in there should be the guy that you have the utmost respect for his judgment, and that he is a cool, cool cat. Many police administrators have never been in a collective bargaining situation. This is a new ball game, and you've got to have a lot of patience. If you're hot headed, you may hurt yourself. I mean the commissioner shouldn't be there, the superintendent, the chief executive of the agency. The police department should be there, and representatives of your agency, such as you're the representative of your commissioner.

One other thing that we are doing that I think has got a lot of hope for the future or will at least tell us something. We've just started a study and it's the first major study that I know of, on discipline in police service in the United States. We're finding already, some things that I think are most interesting in discipline, because it does have to do with labor relations. We have found in all the jurisdictions that we have gone into so far—we have found no formal method of taking the disciplinary analysis and putting it back into training, either recruit or in-service training. No formal mechanism, for example, we have not found that any analysis is being used of the disciplinary patterns to determine what can be used for training purposes. Now punitive discipline, and that's basically what we've been talking about, only comes into effect when positive discipline has failed, in my opinion, and as a consequence, when you're taking punitive discipline, if some analysis isn't done periodically to see if you are developing some trends and patterns that maybe you can do some remedial training on. I'm quite surprised at some of the major agencies that I've got a tremendous respect for, have done absolutely nothing in that area. The other thing that we're finding in the disciplinary procedure is that there is nothing—no mechanism by which the rumors that come up can be offset. In other words, in just the one city that we've put in our basic instrument of what people thought the discipline in the department was as opposed to what it actually was is two different things. But the interesting phenomenon was there's no way for anybody to find out what the facts were. What is the truth? Was the guy really a burglar? And the members in the department themselves have no mechanism of finding out other than by rumor and word of mouth. Now, at this time, I don't have a method to suggest to you, but we have found in our basic testings, and by the way, we're doing a lot of work on the design of this, to make sure that it is credible and scientifically acceptable, because we know that in civil service commissions and so forth it's going to be an important study. I think it's important for you to look at your department and say what am I doing with my discipline? If the discipline is only for the individual,

then forget it, because you have to consider the whole department. If your department is getting a false impression, or you're not getting the value out of your punitive discipline, then you are playing right into the hands again of the guy who likes to stand up and say, see, management's trying to foul you up everytime they can. And he can go uncontested.

Our first speaker is a gentleman trained as a lawyer and political scientist. He spent 10 years in the federal government, as staff attorney, and consultant to the House Committee on Government Operations, when Congress made the Department of Transportation legislation, served as Executive Secretary and Director of the Consumer and Public Affairs of NHTSA, and has been with IIHS for almost two years designing and managing demonstration programs. Mr. Dan Fulmer.

Mr. Fulmer: I'm here to spend a little time discussing some of the accident trends and see if we can share some knowledge. I'd like to talk to you from our perspective at the Institute, and I'll give you a background of what that is. I thought I'd spend a little time giving you a commercial and bring you up to date on what we're doing at the Institute. The Insurance Institute for Highway Safety looks at the highway safety problem as largely a public health problem. We tend to look at it as an epidemic and, of course, as you know, it's the biggest epidemic that we have in America. It kills and maims more people under 35 than any other disease. It probably accounts for, and I say this as a lawyer—it does demand more resources in the law than almost any other problem. It is certainly accounting for an enormous amount of the money that is being spent in the medical field, and therefore, it's contributing to our whole inflationary way of life. It's just not killing people, it's a part of—anything that's going to cost \$20 to \$30 billion a year is bound to have a detrimental effect on our economy—it's hardly a growth industry. Seeing it as a public health problem, we try to scale our projects and our outlook from this point of view.

There is a conceptual framework here that makes sense if you're talking about reducing losses, and that is to look for payoff opportunities in this kind of a matrix, that is to say, the most difficult part of our business, which is the most difficult part of your business—there's nothing more difficult in the world than controlling human behavior, and that's what we, the pre-crash human part of the matrix, are trying to do—something to prevent that crash from taking place. I think that Dr. Hadden in our work is also probably most known for trying to exploit where they were not exploited before, the opportunities in this part of the matrix, that is the crash part of the matrix, where crashes have occurred, and they do occur.

There's no sense in looking at the picture and saying if we get ourselves together in our hearts and minds that that's all we have to do. There's no question that more money and time and brain power has to be put up here than anything else. What we saw happening too long was that, in the meantime, very little was being done here. I think we're beginning to see some payoff, from the concentration that the automobile industry, and now the highway business, has put into this side of the matrix.

The third part of the matrix is what happens after the crash has taken place, as opposed to managing the energy forces while the crash is taking place. This, of course, is everything from emergency medical services to better fire protection, etc. We're now involved in a fire department kind of study that is going to show some very interesting data on the impact of crashes on the resources brought by your brother or sister agencies—can we call the fire department a sister agency? You are probably aware of the enormous amount of time that we have spent in that post-crash area this year, on the problem of fuel tank integrities. We've now seen an updated federal standard on that that will deal with some of these rear-end crashes to prevent the gasoline from spilling and igniting. We have spent a great deal of time and energy in the alcohol area. We are trying to find some characteristics in alcoholics that might bring us different kinds of countermeasures that we've been dealing with before. We are discovering that the male sex hormone, testosterone, has a very significant increase in alcoholics. Now, what that's going to do, I don't know, but it points to some possibilities, but I don't want to go into detail on that because I am by no means an expert. We have just finished a study about the lowering of the drinking age in some states, and I want to be very careful how I characterize that work, because it has been misinterpreted. I think the data speak for itself, and you have to draw your own conclusions if you are in a state where you are worrying about whether the drinking age should be lowered. I say that because, in Michigan, when the drinking age was lowered, there was an increase, supposedly, in the statistics and there were a lot of headlines, and the head of the Safety Council said, this shows how you shouldn't lower the drinking. Unfortunately, that may be a valid conclusion, but the statistics weren't really sorted out. There was a change in the data base in Michigan, and other factors that would make it very difficult to jump to conclusions. We have determined that there is no question that there was some small but significant increase in night-time, youth-related fatalities since that legislation was passed. It was by no means as great as it had been said it was. We also cause some concern or doubt on the often-heard myth that there are a lot of youth driving from states without such legislation, and that was also making an impact. Our statistics did not reveal that to be the case at all.

We have spent an enormous amount of time in the vehicle area of the crash, ranging everywhere from seat belts to air cushions to energy-absorbing steering columns to head restraints, you name it, and where we have seen that data coming out now, data which other people have collected, that was shown that seat belts do save lives, and that you can manage the energy in a crash, and you can reduce the bottom line losses. We're now embarked on focusing attention where we have never focused it before, in the highway department mainly in the area of what we call roadside booby traps, and I'll talk about statistics. I think it's a little-known fact because people have overlooked the way statistics have been categorized in the past. Here is an excerpt from the National Safety Council Accident Facts for 1972, and I think in the past most attention has been directed to this line here. The total fatalities for 1972 is 56,600. The collisions with fixed objects is listed 4,600, and the reaction of that, and even the federal government used those statistics, and it's shocking to see what happen—up to now, that category was associated with fixed objects on the road. It did not include fixed objects that were right off the pavement. This is the category that is associated with that—collision in the roadway, overturning or running off the roadway. The reason we have to be worried about overturning is that more and more research indicates that overturning is a function of the design of the highway, although it is true that you have a design problem with cars, skidding and control problems. Also the research indicates that roads that are not built to the new design standards of 6 to 1 slope are going to roll over, and roll overs account for a very large percent of fatalities, and the largest of single vehicle crashes. That's an enormous hazard problem, and unfortunately it's being overlooked, as people look at booby traps as being large and fixed objects, which do exist—trees that are too close to the road, telephone poles. What we're going to do about the problem remains to be seen. It's important to first focus attention that it's there, and carefully design programs that will have some kind of basis that will do this sequentially.

We do three kinds of work at the Institute—we do very pure, basic research. We're into demonstration projects which are car crash projects. This is a new part of the business—we're trying to put more emphasis on this. We're also involved in supporting various local groups across the country—we have an opportunity to make contact with the grass roots and see what can happen on a more broad basis as opposed to a scientific basis.

I want to spend most of the time on the subject of the effects of the energy crisis. I want to express my caution as far as jumping to

conclusions as to what are the results of the energy crisis. In December of last year, we issued a report called "same hard data relative to highway losses" that might result from the energy shortage. It's to some extent out of date, but it provides a conceptual framework, and it's still useful. First, the effects on the vehicle itself. As you know, for the sixth straight month, we've had a significant downturn in the fatalities. We don't know yet what the injuries and fender-bender losses are, but they're usually proportionate. For six months, there has been a down trend—22.6 percent, according to the National Highway Traffic Safety Administration in April as compared to the year before. California had a 30 percent decrease, so it varies for states.

What is the impact of this energy crisis on things like the factors you see on here that are going to spell some difference in the future. I'd like to talk first about vehicle size. I don't have to argue the point that we're moving to smaller cars in this country, and the energy crisis is really accelerating that. I say accelerating, because in 1969, 17 percent of the vehicles on the road were small cars, and yet by 1973, even before the energy crisis had really taken over, we were up to 27 percent. In that same period of time, and this is a frightening fact, large trucks were increasing on the roads from 17 to 25 percent. That's not a good mix. It's not a good sign for the future, and I think the most dramatic example of that is the study that was just released in February of this year, that was done in North Carolina under our sponsorship, which showed—and I'm just giving you some bare conclusions—I won't go into the data. Some 400,000 crashes were studied, based on the police data in North Carolina. "Belted drivers in sub-compact cars fared as badly as unbelted drivers in full size cars." So that gives you an idea of what's happening to the energy exchange in small cars, even after people are properly packaged with a seat belt.

The second major conclusion that I read out of the North Carolina study is that the risk of severe injury and death was found to be twice as great when two small cars collided with each other as when two larger cars did. We have an offshoot organization now, called the Highway Loss Data Institute, which our participating insurance companies are putting into a computer bank, masses and masses of insurance information to see whether we can aggregate it and draw some kind of conclusion—a pattern. Some of the data has already shown that in the 1974 model sub-compacts that the claim frequency and the size of the loss is far greater for sub-compacts than for any other class of car. Michigan data show that small cars were over represented in single vehicle crashes—and this is from a very large data base, and yet they were not under represented in car to car crashes. We also work in a parking lot survey that we did last year. We had a sort of hunch—so, with the help of

State Farm, we went around and just surveyed parking lots, and then compared registration plates with insurance claims, and we found that the highest percentage by far of losses were in the small cars, again. In other words, there were more unreported damage in small cars. So that even the fender-bender, the economic loss picture is affected by an increase in small car population. They're A, going to kill you, and B, you're going to end up with more dents in your car.

I'd like to get back to the issue of what happens if we all have small cars eventually. The data seem to indicate that this may very well be the direction our country will go in. We did some car crash tests in 1971 which I think are still valid, in which we rammed cars of different sizes together, and at 48 miles per hour, we took sub-compact and compact cars and with instrumented dummies, totally demolished the passenger compartments of those cars. And yet, when we did the same thing at the same speed for full size cars, the passenger compartment was intact. What we're talking about here is the law of physics in play. If I were to wrestle with a gentleman, and I wouldn't want to do so, but he's bigger than I, it proves the point. If we were wrestling up here and he was shaking me, I would continue to shake, and the smaller the compartment we did this in, the more damage I was likely to incur. Once you set in motion a body, Newton says it stays in motion. What you want is a lot of room to manage that energy, so that when your head goes bobbing around, you don't hit something. If you have a small car, it doesn't matter if you hit another small car, because what's going to kill you is that there's not enough room between your head and the fire wall to manage that energy. So, it doesn't matter whether you're crashing with a large car or a small car, your body is going to continue to move at that crash speed, and unless you find some way to manage that energy, or package that energy, your chances are going to be a lot worse than a guy in a large full size car, who has more room to do so. That's why, if you've ever driven a big Cadillac, and you hit something, you're going to survive, even though you don't have a seat belt on, because there is room for your head and body to move and for the crash force to dissipate before you hit something. Ditto for the amount of energy that is soaked up by all that metal in a Cadillac. I used to drive a big, old Cadillac, and before I got rid of it, I hit a cab—it was his fault, I might add—and I just bounced off, and he was a wreck. That is what we're talking about—these forces that are set in motion.

So, what are we going to do about all this? Here we have an energy crisis. We all want to save fuel. We don't want to pollute the atmosphere. How do we reconcile the need to save gas and the need to save our environment and our pocketbooks with this accumulation of data that says the smaller

the car I buy, the more chances I have to get killed? There's a way out of this, and it's really a question of what you do to manage the energy in the size as opposed to the weight of the car. We're just releasing this week a very interesting study that our Institute has done, in which using mass data, as well as theoretical analysis, we have determined that the name of the game is not the weight of the car but the size of the car, and this has been overlooked for some time. We can still build a car that is large, but doesn't necessarily have to have the mass, which is—as far as energy exchange and bad as far as gas consumption. Well, what are we going to do with the people who do buy the smaller cars, people who want small cars. Maybe we'll be able to build a car that has the size that would still provide gas mileage. I don't think we'll ever be able to build a big car that weighs as little as a small car and therefore has the same kind of gas consumption—I'm not trying to lay that on you by any means. I think there is some hope.

I point to the data from the tests in the Cornell laboratory, in which they have taken regular bodies of Pintos and Vegas and installed them with energy-absorbing materials in the structure of the car. What you have for the most part in the chassis of your car is just a linear kind of frame, so that the forces, when they're transmitted through the car, are transmitted rather quickly. They have been working with a different kind of construction, which is called plastic hinge, in which you cross-member as much as possible and build other things that will telescope and collapse frames, so that in that short period of time when the car has been hit by an object, you're managing the energy by soaking it up in the frame. They've done these experiments, along with air bags, and their dummy data show that they can meet the 50 mile an hour requirement that was once levied on the experimental safety vehicle several years ago. The work that's being done in Japan is also exciting, and I am personally amazed at the progress that's being made in Japan compared with the progress in this country. The results from the dummy data there is very encouraging.

This brings us to the issue of vehicle speed. It's an extraordinarily complicated subject, and the data has been coming out on two different levels. First of all, the data are saying that posted speed limits do not seem to be the major factor in causing the crash. It is mostly driving too fast for given conditions. A lot of money was spent by the federal government to accumulate that data, and the notion that speed causes accidents has to be modified by looking at the data, because most of the data that were accumulated was for people who were going below the posted speed but too fast for the given conditions. The other end of it is the excessive speeders, that is over the posted speed limit,

but way over the limit—like 80 to 120 miles per hour. A study in 1968 showed that 12,000 deaths occurred in this over 60 mile per hour regime, of which 6,800 perhaps could have been spared had the cars being going under 60, and certainly a half of those could have been spared had they been going less than 70 to 80 miles an hour. It's important for two reasons. One, we have seen increased enforcement taking place because of the new speed limits in the last few months, and yet, there has not been any kind of clear data to show that this has been a payoff in loss reduction. If anything, I think the data are showing that it may well be that the fact that people are driving less and driving different kinds of trips is having more of an impact on these lower death rates than the speed. It's also important, as California has found, even when they enormously increase their law enforcement resources, they reach a saturation point, so that we have to be very careful of what we do with this whole problem of speeding because it looks like we may have reached the point of diminishing returns, and we must look around for some new weapons to deal with this problem. I don't know what the new weaponry is going to be in our arsenal. Of course, we're going to have to keep our enforcement level the way it is for speeding. And I don't think that we're going to find a continued public acceptance of the fact that one ought not to speed. But there seems to be a kind of human reaction, which has even been documented in the speeding studies—let's say, like water finds its own level, speeding finds its own level. If you talk to any traffic engineer, he will always tell you that you should set the speed limits at the level at which people want to travel. The only question is what is that level.

I would suggest that you do look at one another thing, and that is the problem of excessive speeding. In our business, we tend to look at things that will work automatically, rather than to hope that everything will be done on the basis of changing human behavior. We've seen the war against poverty and lots of other human behavior programs in this country founder because of naive and overoptimistic conceptions of what you can do to change people in mass numbers. I think you're going to find increasing public rejection of a lot of behavior modification that the psychologists and the behaviorists would like to put on us. So we have to look for other ways to do this. The Federation of Insurance Council, which is an allied group of us, has been spending a great deal of time on the subject of speed limiting devices, and I would commend their work to you. They have tried to survey every police department and state governor to find out where they stand on this issue. What they propose is that rather than to see the police resources gobbled up and spent inordinately in the area of excessive speeding, that we move to a more automatic device of an automatic speed limiter in a car. In the old days, this used to be called a governor, but there is now a device

that will not sacrifice the acceleration and emergency capabilities of the car, but will keep it below a cruising speed of 70 miles an hour. These devices are not foolproof, and you will have to pay a price for increasing amounts of tamperproofness to put into them. I wouldn't try to come on with you on that subject after our whole sorry experience we're having with the buzzer belts. It may well be that the answer may not be speed limiting devices of a kind that you can tamper with, but getting back to the design of the car—that Detroit will have to learn to build a car with a motor that will give you all the power you need for emergencies, but no more.

A couple of other factors—youth driving—fewer youth on the road, some of the data seem to indicate. In any case, parents may be putting more pressure on kinds not to drive because of the energy crisis. Restraint usage must be playing a part in these statistics. We did a preliminary study on whether people were actually using the seat belt interlocks, and as ugly and hideous as they are, it is working.

Dan Fulmer: Because of the work that's been done by us and others in the field, you have better bumpers, and hopefully we're going to have a federal standard out this year that's even better than that. The data does show that since we have had increasingly better bumpers, the property damage has been coming down. The insurance companies have correspondingly reduced the property damage premiums. Property damage represents at least 60 percent of your premium dollar. We try to work at both ends of the scale—we try to work with these low-speed, property damage losses, because they're such a large part of that \$20-\$30 billion price tag, and we also try to work on the human loss picture, which takes place, of course, at higher speeds.

Inspector Ernest Elmore: This afternoon, I've been asked to make a short presentation on two different topics. The first concerns internal inspections, and the second will involve internal affairs. Before we get involved in internal inspections, I think it's necessary that I first discuss with you the complexity of our operation which caused us to formalize our internal inspection procedures.

The State of California is pretty large, about 600 miles from one end to the other, and it's broken down into our current seven zones. Within these particular zone operations, we have about 80 different area offices. As we go on further into our organization of the department, as you're aware, we have a single Commissioner appointed to head our department, and as we're talking about field inspection, the Deputy Commissioner heads the field and the structure there. So, the inspection program that we're going to talk about is designed for the field operations portion.

The department is fairly young, some 45 years old, and has grown tremendously. We currently have some 7,434 personnel, of which 5,000 plus are uniformed, and 1,880 non-uniform. We operate 2,686 vehicles—2,329 cars, and 357 motorcycles. Our budget this last year was in excess of \$160 million, so we have a large, complex operation, and we have a lot of money we are responsible for. We feel strongly that we have to utilize our resources in the best way possible. We are responsible to a number of state agencies—they're always looking at our operation and what we're doing with our funds. In the past, we had an inspection system. Ours was informal. Each one of the zone commanders, or through his deputy zone commanders, inspected his operation. We all do it on a daily basis, whether we have a formal or an informal system, because when we walk in an office, we look around. We see the vehicles, we see the cleanliness, we see what may be on the bulletin boards, we see what condition the men are in. We later inspect them perhaps, through records we receive and the expenses of the operation, where we're putting our funds and what they're doing for us.

In California, we went along this way for many, many years, with a less than formal system, and finally, it was recognized that we were operating more or less without a plan. Some zones were very adept in getting to a fleet operation and picking out the problems and reducing their cost. Other inspectors had great expertise in the clerical field. But we weren't using all of our resources and putting all of our information together and really training our people to do a better job. Training them what to look for. We are involved in not only the normal traffic police functions where we monitor the hazardous movement, the certification of devices, vehicle inspection, commercial operations, we have a large auto theft and vehicle abatement program currently in the state, we have air operations, both in the fixed wing and helicopter programs. And the public is more and more interested in what we're doing. Inefficiency of operation, where we can't attempt to show that we are doing the very best to utilize our funds, is highly criticized.

Recognizing this, two years ago, the department pulled in its resources, pulled in various inspectors and supervising inspectors throughout the state, set them down, and tried to get from them their techniques in the various fields, pull them together, formalize them, sift them, and come up with some guidelines of what we should do in a uniform type of inspection program of our internal operations throughout the state. So the inspection system was developed. It was a very painstaking process. There was a lot of controversy among the individuals involved as to what it should contain and how it should be developed, and here's what we came up with. An inspection manual—a formalized inspection manual that

breaks down operations in the field into 15 primary categories. The manual itself is somewhat voluminous and has brought some adverse comments. We're not saying this is the thing for your state; we're saying this is something we felt a need for and we developed it. It's working well for us.

The 15 categories that we selected—the area organization, area procedures and local orders, enforcement, facility security and maintenance, office management, maintenance and use of vehicles, supervision and training, public reaction, planning, uniform and equipment inspection, forms and reports, occupational safety, special enforcement activities, communication procedures, and vehicle inspection. We hope to come up with something in the employee-employer relations field. However, when we look at the other categories we have, we find that employee-employer relations is so intertwined with every other thing we do, that it cannot really be pulled out from the manual. If we did, it would be such a large single category as to be unwieldy. The narrative portion of the manual, which is the bulk of it, explains what to look for, how to get involved, and what you look for. In going through, we provide a checklist for the use of the inspecting officer, for each category, and it varies in length as to the complexity of the inspection you're particularly involved in. Again, we're trying to involve ourselves in the best use of our resources, to utilize acceptable standards, to provide management information, and self-correction.

The mechanics of the utilization of the inspection procedure—we have both formal and informal inspections. Formal inspections—normally, there is a notification of the area ahead of time, before the inspector comes in. He tells them the category which he involves himself in, and gives them some time so that they can prepare themselves. In a lot of the inspection categories it's necessary for them to have certain forms and documents, and certain people available. We look for effective ideas to pass on—to go from one well-operating area, to another where they have a problem in a certain category and be able to take with you the information you have gained and pass it on, so that you can develop other supervisors and management in a more efficient manner. We use this system to correct deviations from policy, because we do have categories that go into direct policy statements and policy procedures. We counsel and we guide through the use of the inspection system. It's not designed for nor do we use it in a punitive manner. We don't want to go into an area and have them scared that they're going to be inspected. If a program is properly developed and properly sold to your field managers and to your area commanders, they can look at it as being constructive, something to help them to keep them from getting into trouble, to identify areas where they're drifting away from policy or from the best procedures, and help them get back in.

Again, this is something that you'll have to sell to your inspectors, to the people who are putting the program and are going into the field. Their attitude is vital to the success of the program. If you had someone like Dan \_\_\_\_\_, our Deputy Commissioner, come in and inspect you as he did me when I was a field commander, I felt no fear or worry when he came in, because the manner in which he performed the inspection was not that of someone coming in in order to bomb you or tear you up, he was coming in to take a look at the operation, see where it may be weak, and to pick up ideas to take on with him.

Then there's the informal inspection, where we may or may not notify them. An informal inspection normally does not involve filling out of all the forms. You go in for a particular problem that may fall within a category. Maybe the fiscal procedures and how they comply with the administrative procedures manual. It may be a particular matter where you have, by looking at the management information system reports, identified the problem, and you want to take a look at that. So you go in and pick up a portion of an inspection category on an informal basis. One of the most valuable things we've found from our inspection manual is for training in the field. In many places when we have a new commander, we require him to go into his area of new command and do a complete inspection of the area prior to assuming active command. This is, of course, assuming that he has a subordinate who has the capability of carrying on the area and maintaining it during this time. But require the man to go in and go completely through the area to familiarize himself with what's going on. The results of this are quite often very interesting. If you have the proper administrative guidance and the proper approach, and you can spare the luxury of the time of a new commander, it is a really great method of familiarizing him with the responsibilities of the new post. We also have, on occasion, team inspections, where the inspector will take in aides to assist him particularly in automotive inspection, where you go into records in great detail, take that commander with him and go into an area where they've been suffering or having a problem, and using that commander to perform the inspection, and at the same time he's doing it, talk to the individuals involved and who are responsible for the various portions of the inspection, and give them guidance and show how they can upgrade their performance and their work. Again, we've got to get away, as I think we have in our department, from the idea that an inspection is punitive and we're looking to penalize someone, we're looking to catch them unsure. That's not the purpose and it will destroy your program if it is approached this way. There's a checklist made up in triplicate—for instance, clerical tasks, in category 5. There are about a dozen different items to be checked—the filing system, the fiscal procedures, other equipment and supplies, office equipment, daily office log, attitude

of non-uniformed personnel, office appearance. The attitude of non-uniformed personnel, we've found many times is ignored—our employees of our department—we sort of put them aside and they are treated like second rate citizens, and this is a big thing. The efficiency of your operations depends greatly upon the attitude of your non-uniformed people, those that support and make the office run smoothly. The public contacts, examinations that are given—the school bus examinations, how these are performed, whether they're performed by uniformed or non-uniformed people. Are they efficient, is the confidentiality of the examinations maintained, the trial information procedures that are provided our officers, the departmental manuals. All of these items are inspected in this one inspection report. The inspecting officer, again, will not be required to fill in every slot and every box. Those items he is interested in and inspects, he reports on. He reports it as being satisfactory, action required, and there is a remarks section. Before the inspector departs an area, he goes to the commander, sits down with him, reviews his findings, and gives the commander the opportunity to explain any deficiencies that may be apparent or at least on the surface appear deficient. If there are items to be corrected or to be updated or improved, the local commander is given a period of 30 days in which to respond. He receives the original copy of the inspection report, the inspecting officer takes two copies with him. If he corrects the problem within the 30 days, he merely initials the report. We do not require a long, detailed report from him. He is a manager, we expect him to assume his responsibility. If he says it's corrected, it better be corrected. If it's something that cannot be handled within a 30-day period, he submits a progress report at the end of the 30-day period, indicating the success he's had, or the problems, maybe the support he'll need.

Quarterly, the zone commanders summarize their reports and send them to the Deputy Commissioner's office for review. At this time, they show how many inspections were made within the zone, and under what categories within the last quarter. Then they provide a memo report outlining the significant findings, corrective actions, and recommendations perhaps for a change in policy or for providing the information that they've discovered, or a new procedure to other areas and other zones throughout the state to assist them in bringing their inspection procedures up-to-date and making them more efficient.

The responsibility for running the zone operation is that of the zone commander. He has the responsibility to see that his operation is efficient, within policy guidelines, and effective. And this is why we put the responsibility down to him to operate the inspection program at the lowest level possible, rather than having a strange team come out of headquarters—it's his responsibility to run his store, to manage his resources, so we do lay

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it upon the zone commander. Each of the zones is commanded by a supervising inspector, each inspector then has one to three inspectors, depending upon the size and complexity of his operation, who support him.

Before we had the formal inspection system, the inspectors were usually utilized to put out fires, and when they were in an area, they'd glance around, and if they had a particular interest in a special category, they'd look at it. Now we require them to look at all the categories, and be totally familiar with the spectrum of responsibilities for the field operation. We find it works well, it's less expensive, the zone inspectors have to be in the areas anyway to perform the regular, routine duties outside of the actual inspection. At one time we required each area to be inspected in every category on an annual basis. We found that by doing so, it became so routine that it became an inspection for inspection's sake. We felt there was little reason to inspect an area over and over again in a category where they are surpassing or they're doing an excellent job. Why keep reparing yourself and burning up manpower to do that? We find inspections having to be made on a very rapid and cursory manner because of the limitations of time. With the exception of a few categories, we do not require an annual inspection. We have the management information system where we get the printouts—we're going very strongly on management by results. We're looking at a zone not as to what he's doing on a day-to-day basis, on each little item for which he's responsible, but what his results are, and how he's doing in carrying out the responsibilities, so we use the management information system greatly, to pinpoint problems that may show up.

We just recently have been able to inaugurate a management information system on our vehicles. We've never had it before. We should have had it, and now it's starting to work. Certain items will pop up, again on an exception basis, as being problems in the state. Maybe one area is burning up too many radiators, alternators are going out, a high brake repair problem. This would require inspection into their fleet management program within that area. The zone commander would pick that up, or the deputy assigned to that particular function, and would institute a program in that zone to find out what is causing it, why it's not happening in other areas, and what can be done to correct it. If it shows up as a statewide problem, of course, then our motor transport section will get involved on a statewide basis and solve it. Very often, these things are localized. Maybe there's a good reason for it—the type of terrain, the temperatures—but by going to the field where the responsibility lies, we hope to develop better data, and more acceptable solutions to the people who have to put it into use.

Would the inspection results ever be associated with the individual's personnel practices?

They haven't been directly in the past, no. We've considered a lot of these things, and we're going to get more and more into it as time goes by. Commissioner Pudinski has instituted a program of management by results and participating management. And along this same line, we'll be looking at commanders now, on the basis of not what they used to be able to write on the examination, but what the performance of their areas show. We've done away with the written examinations just this year for captains and for inspectors. We're going to an employee development analysis, where we take a look at what they've done, how they're performing in the management team, and what the results are. Are they good managers, or are they just personable kids who can pass an exam, go before a twenty-minute oral, and do a little song and dance and go up in the organization, and still not be able to manage men and resources.

Ernie, you've got a pretty expansive commercial vehicle program going throughout the state, but I don't notice any category there where this commercial operation falls out in your inspection process.

Special enforcement activities—I'd like to say that there's going to be a small internal change in our staff operation, in the next week or so, Al? Today. We have just received permission from the agency to which we report to implement a total change. We have made one half of the change in here—why don't you tell them about it, Al—

We found that in order to get better cross communications within the department, we had supervising inspectors in all these different zones. They would communicate with someone who is their peer, which generally is the executive assistant, then we had to run the thing through here, back through me, and back through the different divisions who actually monitor the programs that the department has. So, as a result of that, in order to minimize this up and down and cross communications that took too long, we put a supervising inspector in charge of our enforcement service division. He has all the special programs like our vehicle inspection program, our airplane program, our vehicle theft program, the truck and commercial vehicle inspection program, the school bus licensing and inspection program. That's the main programs. There's also our emergency vehicle licensing program—they're in this enforcement services division. They monitor all the programs by whatever reporting system we have for each different program. They develop all the information for the deputy commissioner. As a result of this, he knows what's happening in each one of his zones on all the different programs. Annually, we have goals for these programs. The zone commander sets the goals,

and it's up to the deputy commissioner whether he wants to go along with that goal or change it. They monitor and report. Over here in our operations, planning and analysis division, they are going to monitor our total, our big field program of removing of impediments, and public service. That's our biggest program, 84 percent of our total budget goes into that program. Effective June 1, we had the inspectors running this division. We put a supervising inspector in charge of this with an inspector as a deputy commander of a division—we just call it planning and analysis now. We moved long-range planning out of here and put it down here—hopefully we'll get the cross communication going so that we can effectively do a better job with the programs.

Another thing that Inspector Elmore just touched on briefly that I'd like to elaborate on a bit was our manual. About last August or September, A. Allen Post—he's the legislative analyst for the legislature, and the guy's got tremendous power. He looks over the budget, when he makes a change in the budget, unless you have some tremendous other evidence to substantiate why he shouldn't change it, you've lost that part of the program. So he went to every state agency and said, what control do you have? What controls or process do you have within your department so that you know that you have some type of uniformity of operation, so that you know that you're being effective and efficient, without just a gut feeling. In other words, we're giving you all this money every year, and what are you doing with it? What controls do you have? Well, we do have what we call an internal audit, and they take good care of all the funds. So we sent him a copy of our manual and all the quarterly inspection reports, and we never heard another word from his office, thank God, but the rest of the state departments are having fits trying to satisfy him on what internal controls they have, that the money they're getting is being spent wisely, and they have some type of uniform operation.

Mr. Elmore: Let me give you a quick thumbnail of our department. We have a Commissioner who's appointed, a Deputy Commissioner who's appointed, an Assistant Commissioner, who is selected by the Commissioner. We have 11 supervising inspectors; each of the zone commanders is a supervising inspector, and there are four of us at headquarters, currently. There'll be five. As a part of the supervising inspector's staff, he has from one to three inspectors, depending on the size and complexity of his zone. Now Los Angeles is a particularly complex locale, and they have a great majority of our officers as far as any zone is concerned. They have about 1,400 traffic officers. It's a very complex and a very dynamic location. They have three inspectors. These are the primary members of the zone staff, and they perform, among other duties, the inspection process. Now, inspections may also

be assigned as a self-inspection to a specific area, or an area may volunteer to perform a self-inspection. An area commander who recognizes that he has a problem, or who wants to train a new subordinate, may require him to do an inspection, a self-inspection of the area. The zone inspectors do the actual inspections. The zone commander doesn't normally. Now, we do have uniform inspections—category 10 requires that each area have at least one formal inspection on the uniforms and equipment on an annual basis. The zone commanders are utilized as part of the top management planning staff of the department. A lot of their time is required on long range planning, and projects, both in the design and implementation stages.

Mr. Elmore: The topic of the next presentation is internal affairs. I'm commander of a small unit that reports directly to the commissioner. On your organization chart, we're identified as office of inspection, and that's obsolete. This was the original name given the office back in the time when we didn't have a formal field inspection, and the inspectors in the office of inspection used to cruise around the state on a hit-and-miss basis. If they saw something or picked up information, they'd come back and report it to the commissioner and generate some activity. From there it developed into an investigative unit on large problems, specific things the commissioner wanted done. A P.R. job. The office of inspection then became an improper title for the work that was being done and was changed to Office of Internal Affairs, which is really the primary thrust of the office. We are the watchdog for the commissioner for the morals of the field. We assure the commissioner one way or the other of the fulfilling of the responsibility of the deputy commissioner and his staff of zone inspectors. Maybe this answers a question some of you had earlier of who inspects the zones. Well, in a small manner of speaking, Internal Affairs performs this, because we do continue to do the field visits as the commissioner's representative, and although we don't get into detailed inspection, we do go into an area—each complaint must be closed with a letter to the complainant setting forth the findings of the department and the handling of the complaint. Now, we don't go into specifics. We don't tell the complainant we find the officer totally wrong, usually. Sometimes we have to. We try not to give the complainant the lurid details of any correction action that we may specifically take. We may indicate to them that the officer was in error and adequate measures have been taken to preclude this kind of action in the future. And we thank them for the opportunity to discuss the matter with them. We always refer to the fact that the supervisor contacted them, and hopefully can state that we're happy to see that you do have an affirmative regard for our department, and this matter has hopefully been clarified to your satisfaction. This is done for two reasons. In the past we have experienced some

controversy we have hopefully closed at the local level, and the complainant was supposedly very happy and he subsequently complained bitterly to a higher level that the action wasn't taken and he wasn't contacted. So it has a control effect upon the individuals who report their findings and that they must communicate back in writing to the complainant of their findings. This matter will go either to the assistant commissioner or a staff officer or employee, or the deputy commissioner or a field officer or employee. He will review it and decide if the penalty level is adequate for the violation. We give him a verbal review of the package. If it is a complex package, he may want to keep it and personally go over it item by item. If he approves of the penalty, and it is 10 days or less, either in a one step reduction in pay for 10 months, or 10 days' suspension, that is as far as we have to go in getting departmental approval to initiate the action. If it is a penalty involving more than 10 days, dismissal, something of this sort, then the package must also go to the commissioner for his concurrence. But he has delegated the responsibility for 10 days or less to the appropriate deputy or assistant commissioner. After the approval by the commissioner, then the actual packages are made up by my office again. If the penalty is dismissal, we prepare the actual dismissal forms and forward them to the area for their service against the officer, file them with the state personnel board within the statutory limitations, and go that way.

The dismissal package is handled in a somewhat different way. The commissioner indicated about a year ago that he was concerned that these are the most impacting actions the department can take against an officer, and he thought we should have more field input when we're considering removing a man from the job. At the point just before the package is taken to the commissioner or the deputy commissioner, we request of a zone that a dismissal panel be set up. This panel consists of two peer ranks, and three ascending ranks. A member of my office, either myself or a deputy, will go down to the panel and present the case to them. We appear there merely as coordinators. We don't have a voting power. We present the information we have received. We attempt to answer questions the panel may have as to the conditions. The panel is selected at random by the zone. Normally, they don't know why they're being called into the zone, what the purpose will be. Normally we don't use an individual twice. We don't want anyone to be able to say it might be rigged. We want the field input, we want the peers. The commissioner has indicated that if the ultimate recommendation of the panel is within the ball park, then he will accept their recommendations for action. Since this was initiated, we have had approximately 20 panels. I think they have gone very well. They've been quite well accepted by the field. Of the 20 panels, we have had 17 that have accepted the departmental

action as being correct. We've had two panels that rejected the dismissal action and came up with alternate actions. We had one panel where a minority of the panel—two of the individuals voted for a lesser penalty and, after review, the lesser penalty was accepted. The panels have worked well. We get field input. They have been a viable tool, we feel, to get back into the field to the officers, letting them know that all the decisions are not being made by the bureaucracy and they do have a chance themselves to input.

We've had some nice and interesting side effects where officers have been notified they're going to be dismissed, and they'll hold on until the results of the P.A. panel, punitive action panel, have come out. And when they find out their own peers have rejected them, then they will put in a resignation, rather than wait for a dismissal action. We have statutory appeal requirements in the state. Men who are dismissed have a right of appeal to the state personnel board and also to the Superior Court. Normally, our officers who are given punitive action, if they protest the punitive action, are represented by one or another association. We have the California Association of Highway Patrolmen, who represents the majority of our people and the California State Employees Association, who also occasionally represents a member who is in trouble. Occasionally, also, an individual will hire his private attorney. We have an enviable batting record with the state personnel board in successful cases. We don't take a case in frivolously, and we don't attempt to penalize a man unjustly. We try to keep our penalties reasonable and in line with the violation that's been committed. When we do have a case go to trial, we want to have all the evidence that will support the case and give us a good response.

Let me touch real quick on the side responsibilities of the office. The office also has a responsibility for labor relations, and labor negotiations in the commissioner's name. This is something new in California. We do not have collective bargaining. We have a meet and confer practice in California which is described by the various labor organizations as meet and beg, and this type of thing. It's quite a controversy. There are several bills pending in the legislature which will provide a certain amount of collective bargaining in the public sector, in the state sector. It appears that one or more of them have a strong chance of passing, either next year or the following year. The commissioner has felt it incumbent upon us to prepare for what appears to be inevitable, and has laid the responsibility on the Internal Affairs Office to research, prepare, and obtain the necessary training so that we might have some jump and not be cut completely cold by the aspect of collective bargaining. We hope that within the office we can develop the expertise to carry on through the forthcoming years, a responsive action where we don't give away the

store at the first approach by some skilled individual in the art of labor negotiations. It's very important that these things be approached very carefully and that we don't give them a management rights clause in their contract.

The other item that we respond to is grievances filed by the personnel of the department. The grievance procedure is one big item in the organization of many departments into labor groups, where they have not had a viable and easily understood and active grievance procedure, where the employees cannot protest a management action and feel that they're going to be adequately heard, and protest without penalty, and without being slighted. This is very important. If you have a grievance procedure, be certain that the individual who files a grievance understands that he's not going to be penalized for letting it be known to management that he doesn't agree with what's happening. Our grievances, I'm happy to say, and this may sound strange, have about doubled this last year. This means we have a system the men understand and they're using it. It's a good thing for management. Many times it can show you that the local command are a little too narrow in their view, in their operation. They're too confining. They won't accept a new idea, and the only way an officer can express himself and be sure it gets beyond the local command is by filing a grievance proceeding. We don't encourage grievances that are filed to air personal differences and personality clashes. You'll get those, but a good grievance procedure will do a lot for you if properly used.

The last thing I'll touch on real quickly is the hardship transfer requests, we do look at those as an internal operation and do some investigation. We allow transfers normally only on a seniority basis in grade and to an available opening. If there are some extenuating circumstances that the officer has no control over, family difficulties that occurred since employment, we will consider the request in support of adequate documentation, and there have been a number granted. Another item we handle is the reinstatement requests. We don't have a large turnover in the patrol, but from those who do leave us, we have a large number who want to come back, and apply for reinstatement. The state regulations require us to consider anyone who has been gone for up to three years. There is a privilege of reinstatement, not a right, and the commissioner has the right to decide whether he wishes to reinstate the individual. We're currently reinstating about one in 15 requests. We take a very long look at their request. If a man resigns or leaves the department, the local commander is required to have a closing interview with him, ascertain the reason why he left the department, and make a recommendation as to whether or not he should be considered for reinstatement at a later date. This is waived at the

time the request is made. We also go back to the man's first-line supervisor and talk to him. A sergeant really has more contact with the officer and knows more about the man's personality, how he works, how he responds, than anyone else. We ask the sergeant, would you rather have him back, or a nice, fresh eager cadet. And many times where they previously put in writing, when a guy leaves, that we'd love to have you back, when it gets right down to the line, they'll say no, give me a cadet. We take a long look at their sick leave use. Have they abused their sick leave privileges when they were on the department? Are they the type of person that everytime he gets 8 hours of sick leave he takes it? Does he have a chronic problem—stomach disorder that's always showing up on his sick leave, or a pattern of sick leave utilized with days off. We look at his health history. Has he had a lot of accidents—does he have a potential back injury? He may come back on the job and lay off on you for a disability. This is a big problem. What's his complaint record, has he had any punitive action? We do a very in-depth package on any request for reinstatement. If, on the surface, we feel he is not reinstatable, we give him a letter thanking him for his inquiry and deny him an interview. If he looks like he might make it, we'll have an interview, which is conducted in my office with myself and staff members. We tape record it—and it's a pressure interview—we lean on him and make him prove to us why we should take him back. If he is recommended for reinstatement, he comes back at a low rate of pay, no seniority, and probably be put in our L.A. communications office for a minimum of one year. We don't make reinstatement attractive. We know people who are job jumpers. I think it's paid off. We have had nothing but excellent reports from the communications office where we put them.

Thank you, Norm, for bringing us up to date on the programs. Do we have any old business to come before the meeting? Any new business? Maybe we've covered all the ground. I'd like to thank the members of the resolution committee who have done a lot of work in putting all this together.

Colonel Lambert: I was going to put Mr. Burns on next. Dick chaired the program for the workshops, and I think he did an excellent job.

Report of Workshop Meeting - Mr. Richard Burns

Mr. Chairman, honored guests, Chiefs of the Mountain-Pacific Region of the IACP. Representatives of your data base management workshop met throughout the day yesterday. The members presented state reports related to police records and communications within their respective states. There was much discussion and deliberation as to the state of the art as it is today. Problem areas were discussed, and things that we should be looking at for tomorrow.

The following recommendations were developed, and will be presented to you at this time for your consideration. One, we would encourage you as state administrators to monitor any emerging legislation, both state and federal, relating to the collection, storage, and dissemination of criminal information. An active role with the legislative bodies is mandatory if we are to preserve an efficient and effective law enforcement mission. Two, it is recommended that the IACP continue to work closely with the AAMVA, and encourage the interfacing of both drivers and motor vehicle registration files to National LETS. Three, the group recommended that NLETS consider the development of an interagency agreement to be developed among the states prohibiting the reading or dissemination of criminal information, drivers or motor vehicle registration information outside of official government channels. There was some discussion held regarding the possibility of the IACP and NLETS staff exploring the possibility of installing an administrative message terminal at the IACP headquarters. No recommendations were made by the workshop group.

In conclusion the data base management workshop group would like to commend the State of Nevada and the Mountain-Pacific Region of the IACP, especially its chairman, Colonel Lambert and his very capable staff, in providing the fine facilities and activities as have been provided to us during our stay here. Are there any questions on these recommendations? Thank you very much.

There have been many extensions of thanks toward the State of Nevada and they've been grateful to me. I did a lot of worrying, but I have a very efficient staff that did a lot of work. And although they introduced themselves at the beginning of the meeting, I'd like to take this opportunity to introduce them and thank them for you and for myself for the presentations here today.

## Police Casualty Analysis—Frank Zunno

I just wanted to spend a few minutes with you and give you some insight into what we're doing in the Research Division, more specifically, the Police Weapons Center, which is one of our most viable components of the Research Division at IACP. As you probably know, this started in 1970, at the request of LEAA, with a grant to conduct some research into the area of police equipment, more specifically, police weapons and protective garments.

The first thing we wanted to find out was what kind of casualties were occurring, and where these casualties were occurring, this being a sort of base line bit of information so that we could make some recommendations about protective equipment. We immediately launched a very comprehensive, nationwide casualty research program. Just by the time we were getting our feet on the ground and beginning to gather some worthwhile data, the government withdrew their funding for this program—in 1971, a year later. One of the benefits of that, though, is it produced an immediate response on the part of the FBI to make their program a little more informative and, as you know, beginning early in 1972, the FBI began disseminating more comprehensive information on a more timely basis about casualties. Nevertheless, the Police Weapons Center continued to operate. It established a data service, which, through the use of individual subscriptions, we received enough funding to continue a very low-keyed program in the same area. We also established in 1972, a police equipment registration program where we looked to the manufacturers of police equipment to help subsidize some of the expenses involved in research. Finally, with the generous support of this State and Provincial Section, late in 1972, we received a grant from LEAA to again reenter the police casualty research effort, and there began a year long study to determine how to reduce the risks inherent in certain types of police activities, certain types of casualty activities. Namely, the area of ambush attack, and the area of response to robbery incidents. Now these two areas were selected because at the time, they represented the majority of attacks against policemen. In the last two years, the focus has changed to perhaps, traffic stops and domestic situations. But, two or three years ago, ambush attacks in response to robbery calls represented the most vulnerable area for a policeman.

Last year was the worst year for police casualties—a record year, and it represents a growing trend. Each year, the number of actual policemen killed continues to rise. As we pursued this research into police

casualties, we immediately noticed some very obvious things. Ron and Norm have distributed a set of alert bulletins, six in number, and each one covers a specific area that we felt needed some immediate attention. That's what the alert bulletin is---an effort to call attention to a specific, simple area, an area that on the surface seems very innocuous, yet gives all indications for being the cause of a number of casualties. I'd like to go over these very briefly.

The first one has to do with the vulnerability of using the hand-held radio. Just like the name implies, you hold it in your hand. Most police officers find it a valuable tool. Yet, the mere fact of holding it in your hand and occupying your hand when your hand should be free to maybe use your weapon or defend yourself, is a vulnerability. The very convenience of that type of equipment produces a counter-reaction in that it becomes a hazard. If we call attention to this, hopefully, police agencies will react favorably to our recommendation that the radio be securely fastened by either a strap or a belt, to leave the officer's hands free. Another feature of the radio that seems incongruent with certain police functions---undercover agent or a plainclothes officer---is that here he is in a business suit, and he's carrying this radio around---it's a real giveaway to his identity as a policeman. One specific case, a very tragic case, an officer got killed walking into a bank carrying a radio. The people holding up the bank immediately recognized him as a policeman and shot him dead. So, there was a dramatic example of our concern of the vulnerability of carrying a hand-held radio.

The second alert bulletin addresses the area of shotgun proficiency. Almost every police vehicle today in our country carries a shotgun. Yet it's appalling, the little amount of training that officers receive in the use of the shotgun. I'm not talking about accuracy or anything like that, I'm really talking about the basic fundamentals of functioning the weapon. You'll be surprised and probably disturbed about the very nature of those events related in that bulletin, how utterly ridiculous it is to have this kind of equipment in police vehicles and not have the officers able to use it effectively. It becomes another hazard.

The third bulletin has to do with off-duty employment. This is a hazardous area, an area that by and large has escaped police administrators. They recognize it as an area that needs some kind of control, some kind of supervision. I know some agencies absolutely prohibit off-duty employment. Yet, in agencies where this is permitted, there is very little control exercised over the officer, and it's largely a perfunctory sort of thing. He gets permission, and he goes out and frequently winds up in a job of

a security type nature where he doesn't really know what he's supposed to do, and in fact, many times doesn't know who he's working for. He's working in a store that perhaps has experience of robberies. He doesn't know if he should be in uniform or if he should be in plainclothes. He doesn't know if he's there to deter crime or to apprehend the criminal. He's frequently without communication, without proper equipment, without any type of protective armor. He's thrust into all sorts of situations, situations that he largely engineers on his own, and perhaps may not be capable of administering it correctly. So, we've outlined some of the hazards inherent in this type of situation as being very vulnerable, hazardous activities for police officers to engage in.

Another alert bulletin concerns the whole area of entrapment. Frequently, officers are lured into situations with the express purpose in mind to kill them. There's a lot of vicious people around the country, as you well know, who are doing this for kicks, who are pursuing some ideology, pursuit of some vicious objective on their part. Regardless of the situation, it points out the hazards of an officer's job in just answering routine calls. He may be lured into a situation that he is not prepared to recognize or face.

Another bulletin discusses remaining in a fire zone. Frequently officers are fired upon and it comes to them as quite a shock. I'm sure it would be a shock to me and to you. Our natural reaction is probably one of anger and surprise, and we're looking around to effect the means of counter-action, to retaliate, to subdue the attacker, to identify the source of the fire, and to the best of our information, these are the worst things we could do. The best thing that an officer can do is to get the hell out of there and take cover, and take some kind of evasive action until he has a chance to size up the situation and then develop a plan for counter-action. And then in all of this there is a need for communication. A need to inform his supervisors about what's going on. In every case where the officer stood and attempted to conduct some type of counter-action on his own, he became a casualty. It's a highly vulnerable situation. Yet, it's contrary to, I guess, the manliness or the ideals of courage that we all look at. No one likes to run, but in this kind of situation, the philosophy of immediate evasive action is a good one. It's going to save some lives.

And finally, one bulletin discusses an area of complacency. The whole business of being a policeman and routinely answering calls or routinely doing things day in and day out dulls one's senses. It makes an officer a very complacent—and perhaps it's a natural thing—if you were on edge all the time, you might be a nervous wreck in a short time. But this is very complacent. The character of false security has caused some casualties. We pointed that out in one of the bulletins.

The two major products of our study will result in two separate manuals, one manual has to do with ambush attacks. The other one will concern itself with robbery attempts. Each of these manuals is a complete package for risk reduction. And every agency in the country will get one of these in a couple of weeks. If you'd like more, let me know. But these are going to represent probably the best type of information laid out in a very practical, informative manner, laid out in such a way so that you can implement a training program immediately, merely by using the manual. It's not going to overwhelm you with a lot of numbers. It's going to give you some very subjective thoughts about how to reduce risks.

I'd like to go over just a few of the characteristics that surfaced in gathering the data for these manuals. We looked at 33 separate events for the ambush manual. We looked at some 94 or 95 for the robbery manual. But I just want to concentrate on those factors that we looked at in pursuit of the ambush manual. Keep this number in mind—33 events, 56 casualties. Seven were killed, 21 were wounded, and 28 escaped injury. We looked at every one of these events and every one of these people, except in one agency for one casualty. It seems incredible, but one agency declined to cooperate with us in this type of activity. Don't ask me the reason, I don't know. But it netted us 32 events that we could study, and 55 people that we could look at. Gunfire killed six of the seven. A knife was responsible for the seventh of the seven kills. Eighty percent of the attacks occurred in or near the police vehicle. That's not too unusual, since the vehicle itself is a means of target acquisition on the part of the assailant. That's the elongation of the uniform, if you will. Ten percent occurred in or near a police station or a jail. And that's not too unusual, because that's where police gather, that's where you can find the concentration of police officers. The other 10 percent occurred in all sorts of random areas. Eight of the 32 events occurred on Sunday. Sunday was the day that recorded the largest number of events. One of the 32 events, or the least number, occurred on a Tuesday. Two of the 32 events occurred on Friday, and otherwise, the rest were distributed evenly throughout the week. All 32 events occurred in the evening or the early morning hours. Twenty-six of the events occurred in built-up urban areas—in the cities. Six were in the rural areas.

We tried to characterize these types of ambush attacks into three separate sub-categories. One we characterized as a sniping attack. The features about a sniping attack were that the assailant was in a concealed location, and he was lying in wait. He was doing something rather deliberate. Forty-three percent of the attacks reflected these characteristics. In

six of the attacks, the sniper fired only one round. In two of the attacks, he fired six rounds, or an average of 2.3 rounds per event. The average range was 93 yards, the shortest, 13, the longest 185 yards. Of the 55 casualties, 25 were the result of sniping attacks. Four of the seven who were killed were killed in that fashion. Four of the 20 who were injured were injured in that fashion. And 17 of the 28 who were not injured were involved in this characteristic of a sniping attack. Only four of the 25 saw their assailant. This, of course, is understandable if the assailant is in a concealed location, lying in wait.

Another sub-group that we arbitrarily identified, we call it the direct assault type, or the direct assault ambush. It's similar to the sniping attack, the direct assaults were 43 percent. The characteristics of direct assaults was that there's no concealment, it's very close range, and the assailant uses the cover of some kind of normal activity to surprise his victim. In other words, he's doing something—walking down the street, acting in a normal fashion, and then, bingo—he's right on top of the officer and he's attacking. Twelve of these 14 events involved firearms. There were about three rounds, on average. Seven of the 12 events were initiated by assailants on foot at very close range. In the two cases not involving firearms, one assailant used an automobile, and attempted to run down an officer. Another one used a knife. The average range for direct assault ambush was 7 yards. Remember that in the sniping area it's 93 yards. Same number of occurrences. Twenty-one of the 55 victims were victims of this type of attack—direct assault. Three of the 21 were killed, 9 of the 20 were injured and 9 of the 28 not injured. Twenty out of the 21 victims saw their assailant before or during the attack. That gives credence to my comment about the close range. The only one who didn't was an officer who was lured out to a parking lot and then shot in the back by someone.

The third sub-category that we labeled—we call it coordinated attack. This represents probably only 15 percent of the ambush attacks, or 4 events out of the 32. This is characterized by a close-range situation, two or more assailants and these assailants are using cross fire or some type of coordination to make their attack. I've got these four events summarized and I think they'll probably provide the best illustration armed with 9 millimeter automatic weapons. Sixteen rounds hit the vehicle, and both officers were wounded. In another event, a two-man unit was attacked by assailants armed with automatic weapons and at least one shotgun. The vehicle was hit 41 times, and both officers were injured. In the third event, two teenaged assailants lured two unarmed off-duty officers into an alley where each of the assailants opened up on the officers with shotguns. Both officers were wounded. In the final,

the fourth event, a two-man unit was struck by three bullets and the driver lost control of the vehicle as he was attempting evasive action, crashed into a tree. Both officers left the vehicle and one each pursued an assailant. More rounds were exchanged, but the assailants escaped and the officers were not injured. The average range for this coordinated attack type of ambush was  $8\frac{1}{2}$  yards, similar to that in a direct assault. Eight of the 55 victims were involved in this type of ambush. Six of the 20 who were wounded, and two of the 28 who were not injured were involved in the coordinated attack. All saw their assailants. As far as defense and counter-attack features go, in 11 of the 32 events, officers were able to use their weapons. Thirty-seven shots were fired by 13 officers. Seven hits were scored by only two officers. So, 20 percent of the officers had effective fire. The whole business of ambush attack invite counter-attack; it invites evasive action. One of the two officers who scored the two hits was wounded prior to his use of the weapon. Of all the seven officers who were killed, they were rendered unable to defend themselves almost immediately. None of the seven who were killed took any type of counter-action. Five of the 20 who were injured returned fire, and eight of the 28 who were not injured returned fire. As far as evasive action and cover goes, I mentioned that as being a subject of the alert bulletin. There's great strength in building some kind of doctrine or philosophy around the use of the vehicle. The vehicle affords the mobility that the officer needs to evade, and it also affords him some type of cover and protection.

As far as geographic distribution goes, the 55 victims were located in 15 states and the District of Columbia. Half of the victims were from the Mid and South Atlantic regions. As far as agencies go, 87 percent came from municipal agencies, 9 percent from county agencies, and only 4 percent from state agencies. Just so this doesn't appear misleading, remember this is only ambush attacks that we're looking at. And I daresay the state police officer is extremely vulnerable to traffic stop situations, and this does not include that area at all. As far as rank goes, 43 of the 55 casualties were patrolmen. It's not unusual—they're the ones out on the street. Eighty-nine percent were on duty at the time they were ambushed. Eight-three percent were in uniform. As far as age goes, the average age of those killed was 28. The average age of those injured was 32, and the average age of those not injured was 29. Now, this means that on the average, we're talking about a 30 year old man who is a casualty in an ambush situation. Remember, this is a passive sort of thing on the part of the officer. He doesn't do anything. He's just a sitting duck. For example, in the robbery research, we found that a peculiar thing emerges as far as the age of the casualties goes. It seems that the older the officer

was, the more vulnerable he became to becoming a risk. You'll see that in the robbery manual when we publish that. It's peculiar phenomenon and I don't know the answer—we can only speculate.

As far as race goes, 51 of the 55 victims were white and four were black. Length of service,  $3\frac{1}{2}$  years, on average. Training received, it seems appalling, but eight of the 55 victims never had any training—no recruit school, no in service, nothing. At the other end, 10 had as much as six months' training. There were no conclusions about the relationship to becoming a risk. This is just an item. And in this day and age, it does seem appalling that officers are still out on the street who have never been trained. In 13 agencies, we found that no in-service training of any type was provided. The majority of the victims never had any training within a year preceding the event. Seven of the 55 victims never had any instruction in the basic use of their service weapon. No firearms instruction. Only two of the 55 victims had ever attended any kind of a class that had to do with ambush attacks or ambush defense.

Weapons employed by assailants ---we took all the available evidence we could find, bullets and shell casings recovered at the scene, anything that would give rise to a firm conclusion that the assailant employed a certain kind of weapon. And the result of this is that the most common weapon is a 22 caliber handgun or rifle, although all kinds of weapons were used. As far as tactics go, we think that there's some simple doctrine that must be disseminated and it's all included in this manual. We need to develop a state of awareness in the officer's mind about his own ability to this kind of attack. He's got to understand that he's a sitting duck out there, and he has to discipline himself not to get lulled into some form of complacency that would take the edge off his awareness. Contrary to some of the best traditional doctrine that we have always advocated, it seems inconsistent with providing some measure of risk reduction to the officer, and I'm talking about two situations. For years, it's been normal practice to make traffic stops in an area preselected by the officer, in an area that would give him plenty of light and plenty of visibility. For years in the city, we have taught officers to make the stop under a street lamp or a lighted shopping area so that he wouldn't be out on a dark, lonely road somewhere. It's this very tactic that the assailant has turned around to his advantage. He's setting up shop at places most likely to be selected by the officer to make a stop, or to write his report. For years we've told officers, why don't you pull under a street lamp where you can sit in the car and write your report, or take your notes, where you'll be seen, where you'll increase the appearance factor of the patrol. The assailant's turning this to his advantage. He's targeting in on the street

lamps where officers make a practice of stopping. So these two things, plus the age old problem of lapsing into routine where you make the same stop at the same time every night for coffee or to fill out your reports or to take a rest—these are all places where assailants acquire targets. So there's an inconsistency in our doctrine with the obvious need for risk reduction. Somewhere along the line we've got to think about that and come up with some kind of re-evaluation of that doctrine.

The business of one-man versus two-man patrol. This is an age old dilemma, an age old controversy. Of the 49 on-duty victims, only 20 percent were alone at the time of the attack. Eighty percent were in the company of another officer. This is the immediate response of most administrators—to use two-man vehicles whenever attacks against officers begin to go up. The data, the results of this research would indicate that the more officers you put out there, the greater the frequency for them to become casualties. Backup cars. One initial reaction to ambush attack was to employ a backup car. For every car on patrol, there was a car following, or an unmarked car running the same patrol route in an unobtrusive manner. This is difficult to evaluate as far as effectiveness goes. In three of the 32 events, it was the backup car that was present at the time of the event. So, there's no deterrence there at all. There is some value in terms of counter-action. Having a backup car there facilitates counteraction and communication, and observation, but we don't know how many possible ambushes might have been deterred by the presence of the backup car. It's a thing that is very difficult to evaluate.

Intelligence is an important factor that has to be undertaken. There are a lot of existing intelligence systems that are capable of developing information about impending assaults against policemen, about revolutionary groups who are bent on destroying police, and we have to crank up the intelligence people to think along these lines, and direct their efforts toward gathering information about possibilities of attacks against police officers. The stakeout situation must be regarded as a very highly vulnerable tactic for police. It seems appalling that an officer would be sent to stake out a highly vulnerable situation alone, and yet many of these officers are doing that. We need more control and supervision over stakeout tactics and off-duty situations.

Basically, our suggested doctrine is to do something immediately, even if you don't know what to do. The thought that officers are completely surprised and frozen into some catatonic state is what is making them casualties. If we could get officers to do something, namely, run, take cover, evade, communicate—anything is better than nothing. We certainly need a lot

more training, even though there's no clear-cut relationship to becoming a casualty, but the whole business of providing this doctrine about risk reduction to officers has to be accomplished through the medium of training. We can't confuse risk reduction with counteraction tactics, speaking now of the types of training employed to counter a barricaded criminal or counter a sniper once he is identified, for instance. These things do not address situations prior to the event, and that's where the focus has to be. To prepare an officer for risk reduction from ambush attack, you have to talk to him about all the things he has to do before the sniper is discovered. Once the sniper is discovered, then you're talking about another ballgame. Frequently administrators confuse these things, and they honestly feel that they're doing something about risk reduction by focusing on counteraction tactics. They're really ignoring the event prior to that, where the focus has to be on prevention of casualties in ambush situations. It doesn't matter if the officer is armed with a cannon or a pea shooter—when he's ambushed, he is going to be ambushed. The business of protective armor is something that many agencies are reacting to, and they're providing officers with bullet-proof vests, and other protective equipment, but this has to be thought of as a—for effective risk reduction, it has to be an item that's worn all the time. You can't have a bullet-proof vest in the trunk of the car and prevent casualties in an ambush attack, because the officer will never have time to put it on. There's a whole new thinking emerging about light weight, bullet-proof undergarments, and shortly the government will launch a major thrust into this area with the material that I'll tell you about later on. Some light weight armor can be employed in the police vehicles—in panels, and other easily penetrated portions of the car. The windshield and windows, still remain, of course, most vulnerable.

Some other things that we've covered along the way that represent items of current interest and confusion and misunderstanding, I thought I might comment on briefly. The business of the revolver versus the automatic. This is a debate that's been going on for 70 years, and my only answer to it is pretty much the same as you're probably faced when you have to make a choice between a Plymouth or a Ford or a Dodge, for a police vehicle. And that's about the answer to whether a revolver is better than an automatic. It's just a matter of taste or choice or cost, or whatever other factors are involved. It really doesn't make any difference. Traditionally, the revolver has always held a high place. I daresay 80 percent of the officers in this country are armed with revolvers. A greater number now, an increasing number are changing to automatics, but there is really no advantage to doing this. It's just a matter of personal preference. Some advocates suggest now that the

double action automatic is so similar to the revolver that it not only reduces all of the questions that were raised earlier about the safety factors associated with an automatic, but it also provides increased magazine capacity. My answer to all of that is simply that the double action automatic is great on the first round, because that's when it functions as a double action automatic. But as soon as that slide comes back and jacks another round into the chamber, you've got another ballgame. You've got a single action situation, and the trigger pull is different, and except for some disciplined shooters, that can be very disconcerting. Again, it's a matter of choice. The business of increased magazine capacity, we found that in all the reports and literature and research that we had access to, the average number of rounds expended in any police tactical situation is about  $2\frac{1}{2}$ —under three rounds. And that's certainly well within the capacity of a revolver to handle. The question always comes up, what about the magnum. You need more knock down power, bigger guns. Forty-one magnum, 44 special, 357 magnum. The 38 special is very ineffective according to some people. Well, the focus here is not on the caliber, but largely on the cartridge. Our research indicates that the new 38 special bullet configurations, and loads with increased velocity, make the 38 special a very effective weapon. All the negative comments about the 38 special largely stem from the round nosed lead bullet. It's that configuration that is very ineffective. So, you don't have to go to a larger caliber. All you have to do is look at the cartridge you're using now and make some adjustments.

The business of lightweight vests—I'm sure you've heard what the government's trying to do in the way of experimenting with integrated uniforms—uniforms made of ballistic resistant material, underwear that's fabricated from new types of yarn. All of these employ material called Kevlar, a very strong fiber that's made from a nylon yarn that formerly was used in nylon automobile tires. They found a way of weaving this that makes it very effective in stopping bullets or knives. The penetration capability is extremely good in proportion to its weight. So, the average vest that we know of, 6 or 7 pound front and back vest, can now be had under 3 pounds, and can be configured in garments much like underwear or like a uniform jacket without any discomfort to the wearer. They're expensive, but if more people buy them, the cost will go down.

Another item that seems to be of great concern to administrators is where to mount the shotgun in a police car. Do you put it in the trunk, do you stand it up against the dashboard, on the floor? The best information we have is that the best place is parallel to the floor, resting on the transmission hump. Now I recognize that there's a lot of equipment there now. The radio, the Vascar, siren equipment, but this type of

mounting affords the best opportunity for accessibility, and is the safest method of mounting the weapon and it reduces some of the criticism that has been voiced about the visibility of the shotgun in the police car.

We have some thoughts about future needs that I wanted to mention and seek your advice on. I really think we have to get into some kind of comprehensive program to reduce risks, and casualties. We have to develop a doctrine, much the same as we have looked at here in this ambush area. We have to somehow create a structure that can handle this. We have to identify some specialists in each agency that can keep this thing going as a matter of input and also as a matter of dissemination. We have to train some people who can undertake the training in each agency. This sort of thing will probably surface as some type of proposal on our part in a couple of months. We hope you will give us the opportunity to have you review it and make suggestions or comments about the project.

We're also thinking about some type of manual for police administrators on how to conduct some basic police research. Almost every agency has some type of planning and research function in the agency and we're thinking that if we could create some kind of comprehensive manual that would provide an easy, how-to-do-it format for these people that would guide them into some basic statistics, and mechanisms for gathering information, how to construct a questionnaire, how to analyze data, how to prepare research reports from sources of information—things like that might prove to be of some value to people who have those functions. We have plenty of police administration books, plenty of traffic manuals and control manuals, but it seems like we don't have any planning and research tools that are worthy of the people who have those functions. Another thing we see is that most people who staff these functions do a lot of duplication. Everybody is conducting the same kind of research at the same time, and we're wasting a lot of manpower, time and effort doing the same things. We'd like to propose some kind of mechanism that would bring all these people together into some sort of a communications network, where research divisions and any agency could act as a kind of message center and facilitate the exchange of research information, so that if an agency did a valuable piece of research, it could use this to channel responses of a similar nature. So, before you would take a major effort in research in your agency, you could plug in with research central and find out if anyone's done it. If they have you could be directed to the agency that has engaged in the project. This would eliminate a lot of excessive duplication and unnecessary legwork. Police agencies traditionally live in an aura of isolation, and we're trying to reduce that and provide more effective communications and more comprehensive knowledge. Well, that's what we have been doing, and if you have any questions....

Meeting officially adjourned.

BUSINESS MEETING  
1974



B

DIVISION OF STATE AND PROVINCIAL POLICE  
INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

REGIONAL CONFERENCE REPORT  
1974

COLONEL J. R. PLANTS, GENERAL CHAIRMAN

NORMAN DARWICK, DIRECTOR



DIVISION OF STATE AND PROVINCIAL POLICE

REGIONAL CONFERENCES, 1974

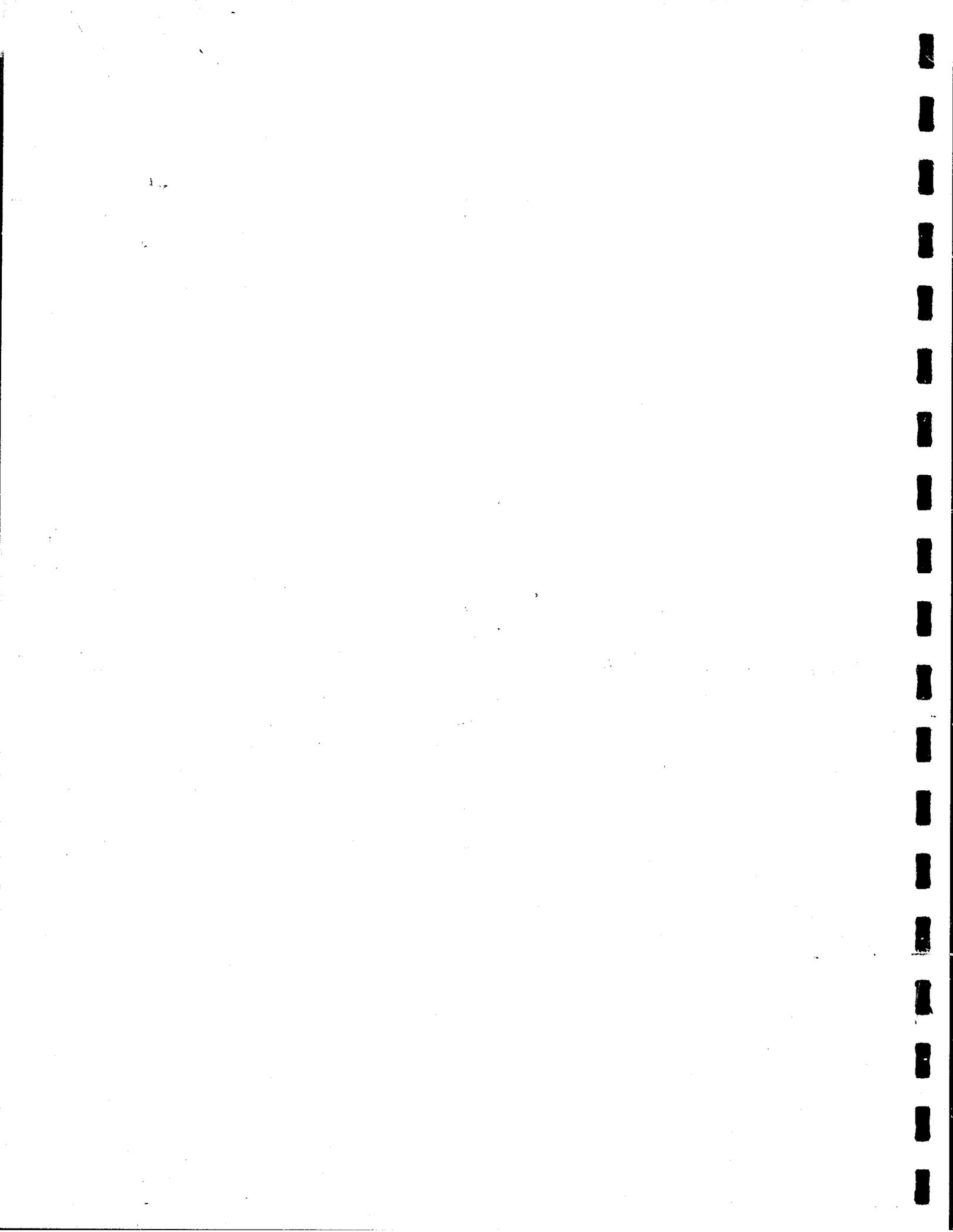
DIRECTOR'S REPORT

1. Financial Report (Copy attached).
2. Review of current proposals submitted to the Law Enforcement Assistance Administration on behalf of the Division of State and Provincial Police.
  - A. Comparative Data Report
    - 1) Printed every two years. 1974 issue should be received by you in December.
  - B. Regional Conference Proposal
    - 1) Support travel for two executives from each state.
  - C. Police Physical Standards Project - Research Concept Paper
    - 1) Letter from LEAA
  - D. Minority Recruitment Proposal - Rejected last year and submitted again this year at the direction of the Executive Committee - Rejected again.
3. Central Index
  - Current status and conflict with State Police Planning Officers Association.
4. Clearinghouse on Information Concerning Police Women Established at the IACP - Police Foundation grant and administered by the Public Affairs Division of the IACP.

5. Management Career Development Program
  
6. Division Programs - In consideration of the objectives of the Division of State and Provincial Police, the following is a review of Division activities:
  - a. Conducted 4 regional planning sessions to develop agendas for the four executive conferences for state police administrators.
  
  - b. Coordinated activities and provided liaison for meetings of the Executive Committee of the Division.
  
  - c. Continue to publish the Division newsletter entitled, Memoranda.
  
  - d. Coordinated activities and provided liaison to IACP's Auto Theft Committee.
  
  - e. On a continuing basis, providing the necessary developmental work and coordination for the two (2) annual State and Provincial meetings and the Executive Committee meeting to be held in conjunction with the Annual Conference in Washington, D. C.
  
  - f. Developed and submitted proposal to the National Highway Traffic Safety Administration to support development of a Model Police Traffic Services Procedural Manual.
  
  - g. Developed and submitted proposals to LEAA for funding of the State and Provincial Regional Conferences and the 1974 Comparative Data Report.
  
  - h. Maintain a continuing liaison with key officials of the National Highway Traffic Safety Administration and the Law Enforcement Assistance Administration.

- i. Provided liaison to the Motor Vehicle Manufacturers Association in areas concerning vehicle security and the Vehicle Theft Technique Reporting System.
  
- j. Participated in a proposed rulemaking hearing sponsored by NHTSA regarding the exemption of police vehicles from the requirements of the inter-lock system standard and the impact absorbing bumper system standards.

The General Chairman testified before the Ervin sub-committee concerning proposed legislation relative to the privacy and security of information systems.





III. Recognition of State and Provincial General Officers and Members of the Executive Committee.

As most of you know, Colonel John R. Plants retired from active police service on July 5, 1974.

A. General Officers:

General Chairman, Colonel Wayne Keith, Colorado State Patrol

First Vice-Chairman, Temporarily vacant

Second Vice-Chairman, Colonel Walter E. Stone, Rhode Island State Police

Secretary-Treasurer, Major Eugene E. Olaff, New Jersey State Police

Advisor, Bernard R. Caldwell, San Diego, California

Sergeant-at-Arms, Major Adolph M. Pastore, Hollywood, Florida

B. Executive Committee:

Immediate Past General Chairman, Colonel Wilson E. Speir,  
Texas Department of Public Safety

Colonel David B. Kelly, New Jersey State Police (Retired, July 1, 1974)

Colonel James J. Hegarty, Arizona Department of Public Safety

Colonel Frank Thompson, South Carolina Highway Patrol

Chief Will Bachofner, Washington State Patrol

Commissioner Walter Pudinski, California Highway Patrol

Commissioner Harold H. Graham, Ontario Provincial Police and

the FBI Representative to the Executive Committee, William L. Reed,

Federal Bureau of Investigation.

I felt it important to mention each of these men individually because of the important developments that have occurred in the past year which each of these men have contributed greatly.

Since our last regional meeting in 1973, there have been some personnel changes. I would like to recognize each of the new administrators this time. Florida Department of Law Enforcement - William A. Troelstrup; Georgia Department of Public Safety - Colonel J. Herman Cofer; North Carolina - Commissioner Boyd Miller and Colonel E. W. Jones; Oklahoma - Commissioner Roger Webb and Lieutenant Colonel Jerry Matheson.

#### IV. Executive Committee Activities

As many of you know, the Executive Committee of the Division of State and Provincial Police has in prior years served in an advisory capacity to the Law Enforcement Assistance Administration. This has provided us with an opportunity to meet with LEAA officials and to discuss those issues which are important to the state law enforcement agencies as well as the Law Enforcement Assistance Administration.

As you know in 1973 there was a change of administrators at LEAA. The previous administrator, Jerris Leonard, resigned his position and Mr. Donald Santarelli was appointed as Administrator of LEAA during the early part of 1973. Mr. Santarelli met with the members of the Division of State and Provincial Police during our Annual Conference in San Antonio, Texas, in September of 1973. At that time he expressed an interest in maintaining the advisory capacity of the State and Provincial Division Executive Committee. As a result of that expression, a letter was forwarded to Mr. Santarelli through Mr. Clarence Coster's office requesting that a series of meetings with LEAA officials and the State and Provincial Committee meeting be established for 1974. This letter was transmitted in December of 1973 and unfortunately there has not been any response to date.

On March 6, 1974, our Executive Committee met in St. Louis, Missouri. We discussed the issue of our relationship with LEAA officials and the consensus of the Executive Committee was that we should continue to pursue future meetings with the Administrator of LEAA.

Several other important issues were discussed during our meeting, but rather than go into detail as to each of these issues let me just touch on the highlights.

We reviewed the Police Physical Standards Concept Paper which was submitted to LEAA by the IACP Staff. This was a project that Mr. Santarelli encouraged us to submit to LEAA during our meeting in San Antonio last year. After review by the Executive Committee the members elected to approve the concept, however, a motion was made that when a final proposal is submitted that the S & P Executive Committee be allowed to review and endorse that proposal prior to submission to LEAA. In the interim the Executive Committee passed a resolution supporting the IACP in their efforts to obtain funding from LEAA for the Police Physical Standards Project and further supporting actual field testing in selected police agencies of our Nation, as necessary to validate the findings of the Police Physical Standards Project and further requested that the various mandates by individual directing authorities to indiscriminately hire people for police work without hiring standards being first validated be stayed until appropriate studies have been completed and cogent hiring standards are produced from the results of such studies and field tests.

The next issue for discussion was the National Law Enforcement Telecommunications System. The members reviewed new rules being promulgated by the Federal government and current hearings relating to criminal justice information systems which include proposals that the Federal government assumes control of NLETS. The members of the Executive Committee,

through official action and unanimous vote, strongly opposed current proposals which suggests that the Federal Bureau of Investigation or any other Federal agency take control of the National LETS System. In addition the members supported the concept that the Federal Bureau of Investigation maintain control and operation of the computerized criminal history system including message switching capability as it relates to that system. These issues of opposition and support were transmitted to the Attorney General, to the Administrator of LEAA, House and Senate Judiciary Committees, and to the President and Vice President of the United States.

Our discussions then centered around some existing policies of IACP, specifically the present system of voting and election of officers. After considerable discussion, the members supported any concept which will support a more equitable representation of IACP membership in the general activities of the Association. As a result a motion was made and passed unanimously requesting Mr. Quinn Tamm to direct IACP staff to develop a system to provide broader representation of IACP in the voting process and specifically requested Colonel John Plants to direct the feelings of the State and Provincial Executive Committee to Mr. Quinn Tamm.

In addition to these issues the Committee was informed by State and Provincial Staff as to the status of the Comparative Data Report for 1974, the Regional Conferences for 1974 and the on-going Management Career Development Program.

I will not go into further detail in discussing these issues for I have asked our Division Director to fill you in on the status of each of these programs.

In concluding the meeting of the Executive Committee, the members discussed the Annual Meeting of the Division of State and Provincial Police to be held concurrently with IACP's Annual Conference in Washington, D. C., in September of 1974. We currently expect to conduct a meeting of the S&P Executive Committee on Saturday morning, September 21 which is the first day of the conference week. The Annual Meeting of the Division of State and Provincial Police will be conducted in the afternoon of that Saturday, September 21, 1974, and during the morning of Tuesday, September 24, 1974.



APPENDIX C

TRANSCRIPTION OF

NORTH CENTRAL REGIONAL CONFERENCE PROCEEDINGS



INDIANA STATE POLICE

Hosting

NORTH CENTRAL REGIONAL CONFERENCE

Division of

STATE AND PROVINCIAL POLICE

INTERNATIONAL ASSOCIATION

OF

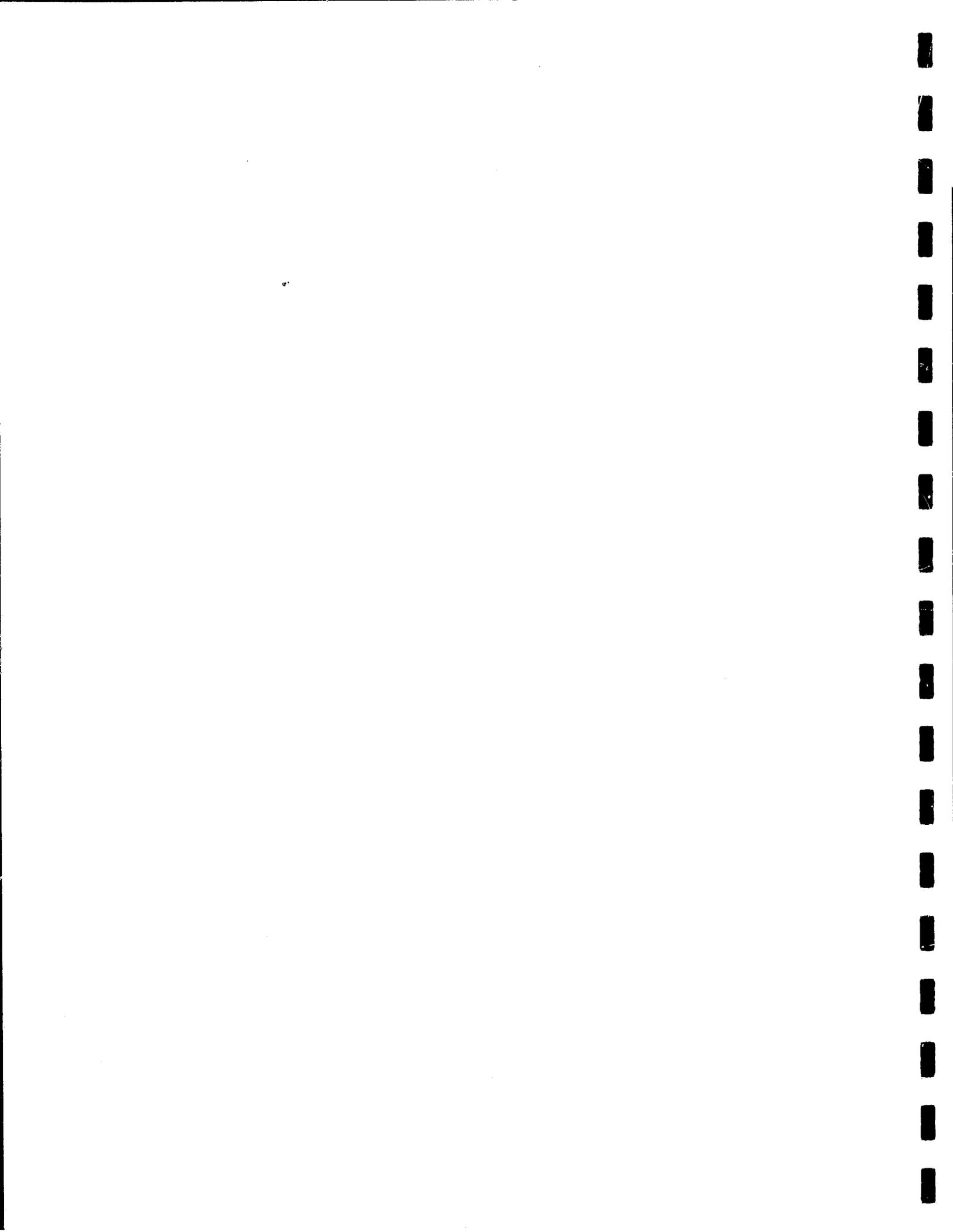
CHIEFS OF POLICE

June 24 - 27, 1974

Chairman

Superintendent Robert L. DeBard

Indiana State Police



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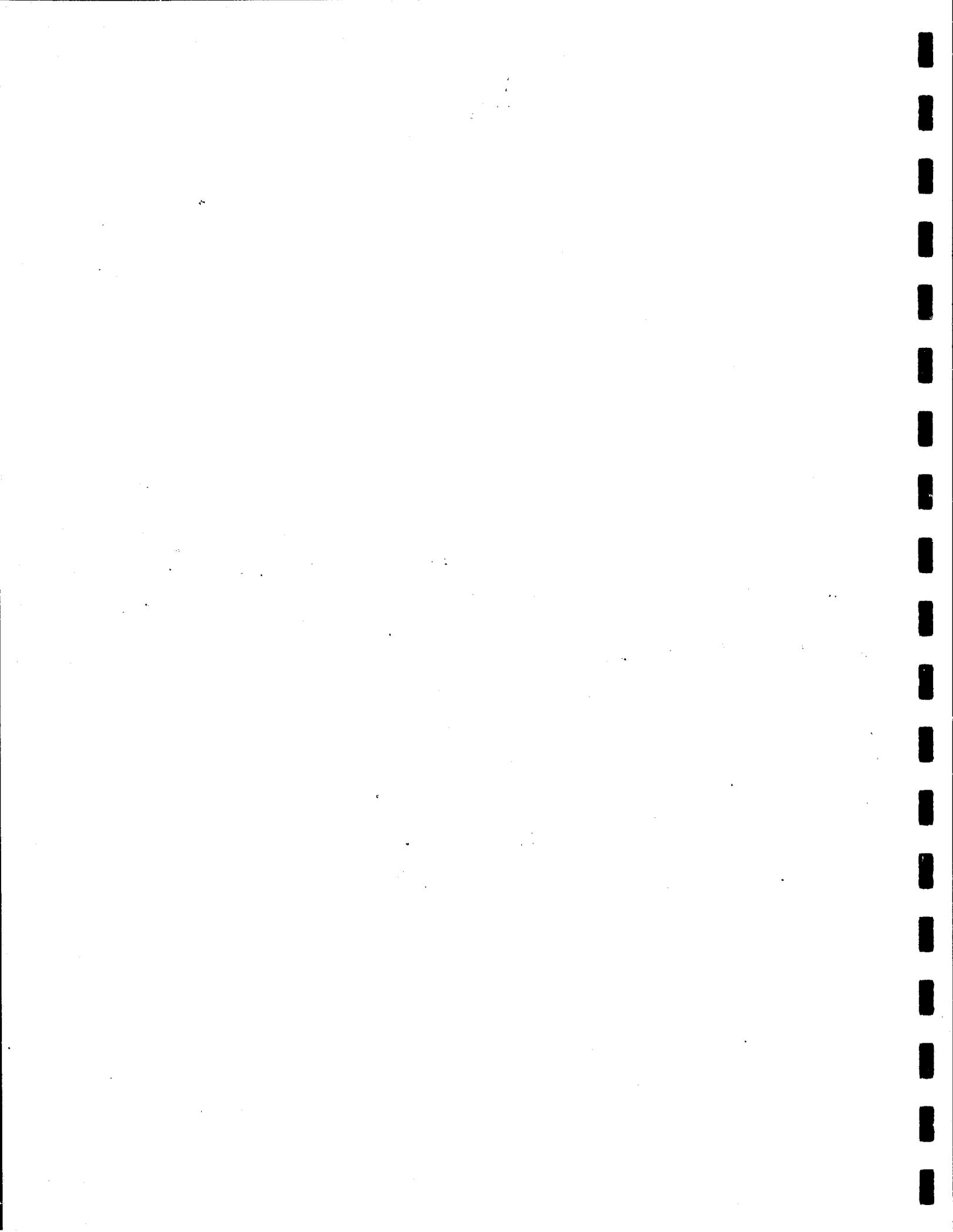
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BUSINESS MEETING 56



Welcome to Indianapolis by the Superintendent

Merle Lowery, Head of Department of Public Safety, representing the Mayor: It's a pleasure for me to come on behalf of the Mayor. I know this organization has done things which have helped to make progress in the professionalization of police in this country. I believe you do also realize that this is perhaps the means by which we solve a lot of the problems facing police nowadays. The Mayor, for example, served on the National Advisory Commission on Criminal Justice Standards and Goals. I come to you to welcome you on behalf of a great friend of the police, the Mayor of Indianapolis. I also want to extend to you every opportunity that we can offer while you are here to be of any service whatsoever. Again, let me say, feel free to make this city your home for the few days you are here.

Jim Smith, Executive Assistant to Governor Bowen: We're sorry the Governor could not be here. In talking to a few of the gentlemen, it seems to me that you're going to be discussing some problems that, at least to me, seem almost overwhelming to us at times. I have found in the brief time that I have been with the Governor's office that working with the police departments on all levels is probably as challenging an experience as I've ever had. There doesn't seem to be any easy answer to the problems that we are facing right now. So, I wish you good luck, and welcome to Indiana.

Howard Shook, IACP: It's always a pleasure for me to have the opportunity to represent our President, Francis Looney. Unfortunately, he could not be here because of a previous commitment. But he has asked me to convey to you his best wishes for a very beneficial and meaningful conference.

Today, law enforcement agencies across the nation are facing the greatest challenge in history. Not only must we maintain law and order, but we also must be equipped to maintain it while dealing with widely divergent elements, from the student demonstrators, to the dope pushers, to the professional gangsters, and to the organizations that have dedicated themselves to destroying the Constitution of the United States. I believe that the primary purpose of any conference of professional men is self-improvement. We can attain this by engaging in seminars with distinguished experts in various areas of law enforcement. It is imperative that we seek ways and means to more efficiently fulfill our common task of protecting the public welfare. During the next two days you will be able to exchange views and discuss mutual problems in the spirit of understanding and friendship. On behalf of President Looney and the Board of Officers of the IACP, I trust your conference will be a significant one and that the continued cooperation between the Board and the members of the State and Provincial Division will exist for many years to come.

Charles Work, Deputy Administrator, LEAA: We're trying to put people up front in LEAA who have had actual front-line criminal justice and law enforcement experience. We're eager to recruit people with that background, people who have the kind of credibility that we know we need in order to make this program work. I'm pleased to be able to talk about those appointment, because I am very proud of those two gentlemen, and I think that you'll see their imprint on all that we do in the future.

A couple of other notions about this perspective that I have, coming from the front line that I think will interest you--one is that I, before I went to LEAA, was just an ordinary subgrantee of LEAA. I one time waited a whole year for a grant to get through LEAA. So I've been out there and I've seen some of the problems that LEAA poses for those of you who are its customers, and I want you to know that I am pledged to trying to make the agency more customer-oriented. I hope to be able to bring that about.

One of the things I've tried to install, and I think we have had some success with it, is that we will act on grants at LEAA at the national headquarters level and at the regional office level in 90 days or less, or they will be granted. When I first put that little rule in, you should have seen all the old dogs that came out of the closet that people have been sitting on for years and years trying to decide what they were going to do about them. And I immediately had to say, well, any of those old dogs, the 90 days doesn't apply to. They've been sitting there for a year, and I would have had to go down and grant all those. But if you have had a grant in there since April 1, we will have that acted on in 90 days. We've brought our average time for action on grants down to less than 60 days, and I think that's a rather substantial improvement in terms of our performance. I want you to hold me to that, and if you have problems with getting a grant in a timely fashion, or with getting an answer on a grant, I wish you would let me know. One of the advantages of being a new agency, as LEAA is, is that there are not hard and fast rules and traditions impossible to change. The place is young, and I think it's an aggressive agency--one that will take hold of the problem and look at it with a fresh kind of view.

A couple of other thoughts about my personal philosophy about the role of the agency, I think are important. The key word for me in the development of a philosophy of this agency is partnership. I know that that's an overworked word, but we're trying to give it more meaning in the context, particularly of the President's program with respect to new federalism, which means to us that we want to return more of the power and authority to the state and local level and that we want to try to assist all of you in building state and local capacity. It's that last phrase that's going to be one of the real keynotes in our two-year plan. We feel that we have not spent enough time with this very

important responsibility. Our mission is to help and assist, and to bring the kind of tools and equipment to the front line of criminal justice that they just haven't been able to have before. I know from having had local law enforcement experience how important the small additional margin of funding that LEAA provides is. For me, it was the margin that gave me a little bit of flexibility so that I could build a program and do some new and different kinds of things. Without that, I would not have had resources to do anything but perform the routine, day-to-day responsibilities and then barely be able to do that.

Now that I've said a few words about our philosophy and outlook, I want to talk about a couple other things that are important current issues at LEAA. I want to emphasize input. Now that we have a good deal of our management structure in place, I am eager to get out more than I have in the past and to visit more with the front line, because we need to have your views and ideas and input. I hope that you won't hesitate to give us thoughts.

There are two issues that I want to discuss--two important programs of LEAA's. The first that I want to emphasize is our victimization studies. We have contracted with the Bureau of Census to conduct what we call victimization surveys all over the country. The first of these surveys has just been released this year. There have been some misunderstandings about the surveys. The victimization survey was designed pursuant to a suggestion of the President's Crime Commission in 1968 which they felt that this particular tool, this idea, was a very important idea. The idea is to take a sample of households and businesses, using the Census Bureau, and, using a four and a half hour interview instrument, go from door to door with a scientifically selected sample in a variety of cities all over the country and ask them about what happened to them with respect to crime in a given period of time. Have they been a victim of crime, what kind of crime--as I said, this interview takes four and a half hours for a trained Census Bureau employee to complete. We are interviewing in 25,000 households and businesses per month all over the country. This is a very large and a very important survey in terms of what we're hoping to accomplish with it in the future. The first results of it were released earlier this year in our so-called eight impact cities. They were given to the impact city teams to be analyzed as well. The next report released was crime in the five largest cities. This report received a good deal more attention than the earlier eight reports for a variety of reasons. One is that the focus on this report was unfortunately on the difference between the UCR's and the victimization reports. Now it's important to note that this is not the purpose of these victimization reports, and it's important to note that our stance is that victimization is another tool that hopefully will be useful to front-line law enforcement and criminal justice planners. It is not intended to take the place of the UCR, and in fact, comparison between them and victimization is somewhat difficult. They had to work out a special kind of formula and so forth to even make it comparable at all.

The thing that I found unfortunate about the press treatment of this story was that there was a great deal of information in these victimization studies, and the press, of course, just played up the question of the difference between victimization and UCR's. And one of the reasons they did was, of course, the City of Philadelphia, where the UCR report was five times less than the victimization report was. So we got, particularly in this one city, a tremendous discrepancy. But there was one fascinating and important figure in those victimization reports that was not played up at all, much to my disappointment, that I thought was the essence of the story, and that was that according to these surveys, the victimization rate, that is, the number of victims per 1,000 population, the City of New York was almost half that of the City of Detroit. In other words, that study, whether you feel it is valid or not, showed that the City of New York was about twice as safe as Detroit, a rather astounding conclusion in mind, because I felt that all big cities were dangerous--that one was as dangerous as the other. That was just based on some gut reaction that I was carrying around on my own. But here we had a very significant conclusion, and low and behold, there was only one set of newspapers that really featured that conclusion at all, and that was, of course, New York.

We feel very strongly, and we have put a lot of money into improvement of reporting techniques, and there's an awful lot of work that has to be done with victimization. It's a tool that will continue to be improved--it's not a perfect tool. But the thought I want to leave with you is that these victimization surveys are important, they're worthy of your attention and I think they're going to be another significant tool that the nation will look to over time to see whether or not we are winning or losing the war against crime. They will not supplant the UCR's, they're not intended to, but they will be another tool that we can look to to see whether we're succeeding or failing.

The first victimization reports over time will be released either this fall or early winter. That means the first reports that say whether crime is going up or going down, which we have not released yet and those reports will again be, first of all, for the eight impact cities. They will measure a period of time, I believe it's 1973, and they will say whether crime went up or down during that period of time. And after that, just as the UCR's are released every year, you will see releases of the nationwide victimization surveys--the one for the entire nation and the ones for the specific cities that we are interested in.

Another way we're using this tool is when we go in to a city or any jurisdiction with a significant amount of funding, we are going to use the victimization survey as a pre-start survey to try to determine whether or not our funding made any difference with respect to the crime rates in those particular places. It will also be a planning and evaluation device for LEAA, and we hope in the future it will mean that we have a good deal more data and information on which to judge our performance.

Let me turn now to security and privacy for a moment. I was out at Charleston and several weeks after I returned, a clipping from the Charleston Gazette crossed my desk, and I found that I had said to the assembled chiefs there that I was urging you all to protest the security and privacy regulations. In case there's a newspaper reporter here today, I want to make sure that they don't make the same mistake the Charleston Gazette made, because I had to write a letter to the editor. They had misconstrued rather dramatically what I had said out there, so I tried to set them straight. I am not urging you to protest security and privacy regulations, let me underscore that right now. Security and privacy is one of the real key issues that each one of you faces, and that we're facing right now at LEAA, and I have been disappointed that there hasn't been more debate about these issues out on the front line of criminal justice, because they're going to affect you and me, and they're going to affect how you run your departments. These particular regulations that we issue, and the bill that I am certain Congress will enact, is going to make a significant difference and it's going to impose some hardships on those of you who run information systems. The important thing, and the message that I'm trying to get across here, is that we need to become informed about the issues of security and privacy. It does not appear to me that we're going to have a bill this year. The only reason is because of impeachment--the House just hasn't been able to work on it. I think the Senate will get something out. There is a strong mood in the Senate to get this one out, because Senator Sam Ervin who is one of the prime movers of it in the Senate, is retiring. But, let there be no mistake about this, there is a strong bi-partisan mood in both houses of Congress that there ought to be security and privacy legislation.

I have no doubt that it will be passed at the next session, and we will have a piece of legislation that will affect all of us dramatically. It's going to require changes on all of our parts, and it's going to require, quite frankly, a period of difficulty, making those required adjustments. So, I urge you all to become students of it, to look at that bill and see what kind of effect it's going to have on your operation, and to get your comments to your Senators and Congressmen. Let me say that the bi-partisan effort seems to be so strong, that I'm sure that once you see the conservative version, and the version that's proposed by Ervin from the more liberal side, that you will wonder where the law enforcement view is. It's that serious a problem from your point of view. I think you ought to become acquainted with it, and you ought to raise your voices about it if you think that's necessary.

The feeling that I have is that we're going to have to have legislation of this sort, that in the long-run it's going to be helpful to criminal justice systems. All of you know that our systems throughout the country suffer from incompleteness. How many of you have been frustrated by the fact that you can't get a disposition on a criminal record to save your life? I know I have. That, in the long run, is going to be cured by this legislation, but it's going to be painful getting started. It's going to require more staff energy, more money, and tightening up the systems that are pretty loose now.

One final thing about security and privacy, LEAA is mandated under its legislation to come up with regulations pertaining to security and privacy. A number of you are aware that we have been holding hearings across the country on our regulations. In addition, we have the FBI's NCIC regulations. Putting those regulations into effect is also going to be a tough and difficult stance for us to take, and we quite frankly are not going to be able to make very many people happy at all in putting them into effect. We have a clear mandate from Congress, and we will have to put them into effect some time this fall. The time for commenting on those regulations is now.

The final thing I ought to turn to in terms of specific issues is the question of where LEAA is going in the future. We have three really important programs that we're going to try to concentrate on with respect to our discretionary money. I want to cover them because some of you may want to come in with grant applications for some of this money. Of course, you know this discretionary money is handed out from Washington. What we try to do is look for priority areas that we feel are important, attach funding levels, and encourage people to apply for grants which will support projects that will enable us to do more work throughout the country.

The first, and perhaps the most important, is our so-called citizen's initiative. We're eager to try to get two things to happen with this citizen's initiative. We're trying to get the citizen more involved in law enforcement problems, to better educate him, and make certain he understands the problems that law enforcement faces. We're trying to get him involved in crime prevention. We're trying to acquaint him with the fact that it does matter whether he locks his car or not. It does matter whether he has a good lock on his door. In short, we're trying to raise his level of consciousness about the crime problem and about the fact that there is something the citizen can do. The other phase is that we want to get all of criminal justice in a place that it can do more for the victim, and more for the citizen who comes up against crime, the witness and the juror.

The business of giving more support to the victim and the witness is, of course, a problem and has been a problem for some time. In this era of rising crime rates and limited resources, it's easy to forget about the citizen and the witness, and we're trying to develop and fund projects that will do more for those particular people who come up against crime. We're trying to make the case that each one of these witnesses ought to be treated in a dignified, humane fashion. We have money available for those of you who have ideas about how we can do more for the citizen, the victim or the witness, or how the citizen or the victim or the witness can do more for us.

Another important program is our standards and goals program. Most of you are acquainted with it. We're eager to support projects that attempt to implement any one or a number of the so-called standards and goals that are the product of the National Advisory Commission. Let me underscore that we are not mandating any of those standards or goals. Being an ex-prosecutor, you can hardly feel that I would support, for instance, that plea bargaining standard that is in the courts section. Nevertheless, what we're eager that everyone do at all levels of criminal justice is address themselves to the standards and goals process. The process, we feel, is an effective planning device, something that each one of you can use and consider, and we hope you will use them as you see fit.

Finally, we're eager to do more in the juvenile delinquency area than we have done at the national level before. The states have quite frankly done much more with LEAA money in the juvenile delinquency area than we have at the national level. And we got from Congress in our 1973 re-enactment, a very specific mandate that we ought to do more in juvenile delinquency than we have in the past, and we're attempting to fulfill that mandate. So, you will hear more from us about this than you have in the past, and we are eager to fund projects that relate to juvenile delinquency.

There are a couple areas that I have not touched upon in depth. One of them is evaluations. We want to do more to try to find out what works in criminal justice and what doesn't work. We're also eager to turn more of our attention to the courts. We feel that the courts have lagged behind in this program. Before I get into too much detail, I think it's important that I stop now and get whatever questions you might have.

Question from the floor: I was interested in your remarks on the implementation of the standards and goals at the state level. What happens if the state just sits back and does nothing about them?

Mr. Work: They can do nothing. There's no problem, except that I have one word of caution. Our stance on it is a little complicated and it has been confusing. Let me tell you why. The statute in 1973 for the re-enactment of our legislation does try to define what they call comprehensive planning, because Congress was concerned that we raise the level of performance of planning in each one of the states. So Congress put in there that there ought to be standards and goals in each one of the state comprehensive plans. We must distinguish, though, between those general standards and goals and the specific standards and goals of the National Advisory Commission standards. We don't care whether you throw out all those National Advisory Commission standards. What we are required to do is require that the states address their own standards and goals--that they set at the state level, from whatever source they want to use, in their planning process.

So, we're basically talking on two levels--Congress says there's got to be standards and goals in the plan, but we at the federal level, can't tell you what your standards are going to be, we can't tell you what your goals are going to be. We can't tell you to address those specific standards. We can say that the idea of standards and goals is something we want you to build a statewide plan around, and we're working up to that. By 1976, there has to be a comprehensive set of standards and goals in each one of the statewide plans, but we're not going to tell you what they're going to be. The key word is process.

Question from the floor: I liked what you said about continuing dialogue between this body and yourselves. As you know, the governing body of the Division of State and Provincial Police is an Executive Committee. They have a general chairman and a first and second vice chairman, and regional representatives. In December, we suggested to you a mechanism whereby we could meet on a regular and formal basis to discuss our problems. In Charleston, you indicated unofficially that probably you're not going to be able to do that. What mechanism do you recommend? How can we go about establishing this? My Executive Committee is unhappy that we're not doing this on a regular basis.

Mr. Work: One of the things that has happened to LEAA and we've just come to this realization this year is that particularly with the national discretionary money, we have now been at a certain level of funding, a very high level, for three years. And this year, for the first time we did not come up against a so-called July 1 shovel out the money rush. Last year if you had had a big truck, we would have welcomed you with open arms and you could have just backed it up and we would have shoveled out the checks. Because, quite frankly, the early history of LEAA, the last three years has been that there have not been enough worthwhile projects to spend our money on. Well, we're coming to the end of this fiscal year substantially in the hole in most of our funding areas. In other words, we're running over in '74 projects into '75 money. I've got a couple of very aggressive managers who tell me that the way their planning process is going, they're going to be out of money in February of next year. If I don't find them some more money after February, they're going to quit, because the only reason they came to work for me was to spend money. So, that's a very different

But we, at headquarters, have just really arrived there this year. We have had to take some closer looks at what exactly we are funding and look at them also from the even handedness and consistency point of view. Our problem, as I explained in Charleston, with funding those particular sessions is that as this competition becomes more stiff, number one, there is less money available, and number two, the other constituents of the program are going to want to have their groups funded when they meet, like the defenders, like the prosecutors, like the judges. And so for the standard

interchange meetings, the funds are just drying up. It was very nice in that part of the history of LEAA to be all things to all people. It may have taken a while, but frankly, remarkably few grants that were seriously pursued at the national level were turned down. It's as simple as that. And that, of course, made a lot of friends for us.

Now we're at the stage where we're going to be turning down more and more of these applications. We're not going to have as many friends. But that's a historical posture of the program that I welcome, because what that means is because the competition is going to get stiffer, the program is going to get better. We're going to have to look for the decisions on our funding to particular ideas to particular thoughts that are going to produce particular products. And we're going to have to look to whether or not we can perform the same service for other similar types of organizations that represent other parts of the criminal justice community. And it's for those reasons, primarily, that we're looking very closely at the funding that we're doing for meetings of that sort. I understand that this is a painful experience for all of us, and it certainly is painful for us, especially as I end up in this job being the "No" man, most of the time, and it's a difficult judgment to make, a judgment that one can disagree with with good reason, but for those two particular reasons, as I said, I am not optimistic about that particular grant application.

But I think there is a definite need for that dialogue to continue. I don't think that you can afford to ignore us, and certainly, we need to know what your plans are, and what you're doing, and vice versa. And the impact that these state level people have on the local law enforcement agencies is significant. They're providing training, information systems, and all the support services in most cases.

We don't want to appear that we are ignoring that, but like we are saying, even to people at the state level, for instance, we've got--let me explain to you another kind of historical phenomenon. We've got cases in the state level that are coming in for discretionary funding and say, well, look, this has been funded for three years at the state level, and this project is going to die if we don't find some other funds for it. Well, LEAA is not a permanent program. LEAA is by its very nature, temporary. We're not picking up those state-level programs either. And a number of them are dying, if the state won't pick them up, won't put them into their ordinary budgetary process. And the notion of looking for alternative funding is just something that all of our constituent agencies are going to have to look toward and we're trying to get everybody to think about it, because the competition for the funds is more severe than it has ever been.

Question from the floor: Mr. Work, I like the idea of LEAA being a funding agency and we like the money we get, but there's one point that has been

raised. I think the example is the victimization study makes a point. One point is that it didn't excite us that the study wasn't done here, but we know that we have some problems. It didn't particularly upset us. In fact, we think it made some points. The point is, and we've been checking around-- most people don't report crimes because the victim is more damn hassled than the criminal. We're finding that they don't point the finger of blame at the police. We've had more cases blown by an inept prosecutor who really ruined our own witnesses. I think the most obvious is the rape victim. But the thing is, money is not going to solve that problem. There has to be some changes in the system with which we deal, and it's a frustrating system for a policeman. Is LEAA going to be the type of agency that is going to try to deliver some of those messages in the right places?

Mr. Work: Well, we're trying. We've done two surveys that support what you say. Victimization supports the hassle notion. They say that the police and the "system" wouldn't want to be bothered. There was no question that they're turned off by the system. I don't think that it's necessarily just one part of the system's fault. But let me assure you of one thing, that time and time again, we hear, too, that it's the prosecutor, it's waiting in those witness rooms. The focus that we want to have on this is that it's a systemwide problem, and that pointing the blame from one segment to the other segment just doesn't make a lot of sense. In the major cities, the police are in a better situation to handle it, because usually that case belongs to one particular police officer, and if he's conscientious about it, he can give pretty good service to that witness or victim. And I've seen time and time again, those conscientious police officers walk out of the courthouse in disgust because they came up against a young prosecutor who didn't know what he was doing, or a prosecutor who had 50 cases instead of his one, and he didn't pay it the kind of attention that the police officer thought he ought to pay it. So I'm not quarreling with your thesis, but I am here to say that I have also watched very skilled police officers handle that kind of thing in a very effective way.

Don't get me wrong, I am not pointing directly to the prosecutor. To make my point a little more clear, a specific case: How do you think a police officer feels standing before a guy who looks like he'd be better off dead, who's been beaten up, and he can't get the guy to even sign a complaint, because he says the last time I went down there I spent ten days cooling my heels, never knowing for sure when the case was going to come up, and I missed work. I can't afford that.

The main reason why we're working on this citizen's initiative thing is that I've lived that with you. I spent nine years trying to work with that problem. You ring more true bells with me on that description than anything I ordinarily hear in this business. I want to assure that it is that kind of feeling that's

behind our notion of bringing more service to citizens, witnesses and victims. That's what that discretionary money is for, to try to get all parts of the system to focus on that one way or another. I used to tell Jerry Wilson, Chief of Police of the District of Columbia, that I would far rather have him spend time training his new recruits on how the court system works and how to move around that system and make it work for them than I would have him spend time on the law of search and seizure. Forget all those hours on search and seizure and confessions. Those are only a small percentage of our cases, but fully fifty percent of our cases in the mass-produced environment went down the drain because a rooky prosecutor or a rooky policeman didn't know what to do next, or couldn't find courtroom 20, or for some reason or another the signals to the witnesses or victims got mixed up. It's making this whole system work together that I think is one of the beauties of this LEAA program. I am committed to trying to end pointing the finger and trying to get us all to work together.

Question from the floor: Are there any projects nationally for victim compensation that we can be aware of?

Mr. Work: We're interested in victim compensation, but we have stayed away from it in terms of funding because it just eats into our resources so dramatically. Our position has been that that just has to be taken up at the state and local level, because if our funds went into compensation, our funds would just dry up. I'll report to you on the status of the Public Safety Officers' Benefits bill that is in Congress. That's moving along quite well. I think that there will be legislation on that this year, but the reason it came to mind was, that project alone-- just to give you some idea of what benefits program does to any pot of money-- that project alone, death benefits for public safety officers is going to take 25 million dollars to run. So, when you get into victim compensation for all the crimes all over the country, it just gets enormously expensive. I think that's why legislatures haven't been quicker to act as well. As far as the research angle, we think that we know what we would find out. We just have had to say that there are other research priorities that are higher. But victim compensation is something that's coming, it's something we like, but we just can't fund.

Chuck Hawley, National Highway Traffic Safety Administration: One of the things that I was asked to talk about is the reorganization of NHTSA. For a number of reasons I'd like to defer on that and take up questions that you may have later. There are a number of reasons for that. There are those who take the position that the term reorganization is a misnomer in that it implies that we have been previously organized. Another reason for it is that I am not sure that it's not one of the dullest subjects in the world to talk about the organization of a government bureaucracy, and my title illustrates that pretty well. If I explained it to you, I'm not sure you would understand, because my wife and my best friends don't even understand it. If you understood it, I'm not sure how valuable it would be to you, so we won't go into that.

I would like to talk a little about the basic function of the administration which has not really changed that much. The federal government really entered into the highway safety picture in 1966 with the passage of two laws, the Highway Safety Act of 1966 and the Motor Vehicle Safety Act of 1966. In 1967, when the Department of Transportation was set up, it became a part of that. We were part of the Federal Highway Administration, and later we became an administration with the department. We have three somewhat separate but related missions. One is the regulation of safety standards for the manufacture of automobiles. Most people when they think of the National Highway Traffic Safety Administration think of the motor vehicle regulatory functions, and I guess the best known man in that field is Ralph Nader. We administer some of the regulatory laws that were incorporated in the Motor Vehicle Safety Act, and you hear a great deal about it. That's administered by one of three major units within the administration, called Motor Vehicle Programs.

A second major program is the Traffic Safety Programs. The law authorized funds to be appropriated to states to improve and expand their highway safety programs. This is under Section 402 of the Act, and most of the monies in NHTSA are the 402 type grant monies that are appropriated to the states. The law requires that this money and this program be administered under the governor of each state, and each governor has appointed a governor's representative to the NHTSA.

A third function of the administration is research and development and demonstration. Funds are appropriated under Section 403 and are appropriated directly to the agency for use nationally in research and development and for demonstrations on highway traffic safety. Our biggest effort to date in the way of demonstration projects have been the Alcohol Safety Action Projects. We have one project in each of 35 states. We have one here in Indianapolis. They were initiated in 1970, and all, with the exception of six, are scheduled to terminate their operations at the end of December. The six are to terminate at the end of June next year. There are some monies in the 1975 budget now pending before Congress to continue some of them for an additional two years. This has been the major thrust in demonstration projects. These projects attempt, through increased law enforcement, through judicial procedures, and through some types of referral for education and rehabilitation through public information and education, to reduce alcohol as a cause factor in crashes.

I'd like to state that the priorities of the administration include working with states to improve their programs to deal with drunk driving, to work for more selective and more effective enforcement of the traffic laws, and we're streamlining in making more effective the judicial structure. Another area is in seat belt usage. We're working with the states to enact laws on the mandatory use of seat belts, to require that they be installed in cars, and encouraging states to pass laws to require people to use them when they are installed. We feel that the intelligent and fair enforcement of the traffic laws is fundamental to any kind of traffic safety system to reduce crashes. What I'd prefer to do, rather informally, is hear what you have to say, and respond to the questions that you have.

Question from the floor: I have a question with regard to the FARE program. This was sort of a demonstration project and evidently involved funds in some other categories that allowed the FARE program to be put into effect in various jurisdictions, and this was found to be quite beneficial, and yet, in all the meetings that we have had with you and talked about continuing or expanding the FARE program, there's been no results. You indicated earlier that you're interested in some program that we felt might be effective. I for one, speaking for my jurisdiction, would like to see your administration take a look at a continuation or expansion. Is there any thought at all in your office about the FARE program?

Mr. Hawley: We have a little egg on our face about the FARE program. Again, I've had nothing to do with it until the past six weeks. The Michigan experiment upon which it was based was inadequately evaluated. The Insurance Institute for Highway Safety has taken a pretty critical view of the evaluation methodology. That's one of the problems we have in any of these programs--how do you adequately evaluate them in a dynamic environment. It's a problem with the ASAP's where we're spending millions of dollars trying to evaluate whether the ASAP's are producing results. We can count arrests, we can count up a lot of activities, but are these activities having an impact on crashes? We have to use proxy measurements a lot of times, because we don't have the real, scientific information. I feel confident that intelligent, selectively applied enforcement can produce results. We are asked the question, where is the demonstrative evidence that this has happened. In the ASAP's, for example, where we have seen a reduction so far through May of about 23 percent in the fatalities throughout the United States, this is a phenomenal reduction, if you look back over the past 15 years. This is obviously attributable to lower speeds, and to reduced mileage. But in the ASAP's where we are mostly in urban areas, the speed is not that kind of factor anyway, because the speeds were not at those high levels to begin with, so when you look and compare what's happening there with the rural areas, the rest of the state, it's going to put the evaluation of the ASAP's at a real disadvantage this year. It's very difficult to evaluate.

If we're going to expect to get monies from the Congress or from state legislatures or city councils or county boards, every year it's more and more emphasis upon, show us proof that these things work and our tax money is being well spent. And in the highway safety field, we're hard pressed to show this proof on any kind of program. Through these demonstrations, we hope to be able to better do that. If we can't do that in the next few years, we might as well give up the ship. A lot of those in the past, we have been unable to relate the activities to the bottom line, that is, to effect on crashes.

Question from the floor: In your reorganization, has there been any thought given to the approach of incentive money, rather than imposing a penalty by taking the money away?

Mr. Hawley: Our incentive funds were for seat belt laws, and Puerto Rico got an incentive grant for enacting that law. Also, for fatality reduction. I don't know whether those incentives are going to survive. From what I hear in the present Congress in discussing it, Puerto Rico was given an incentive grant for passing a law. I don't know whether they intend to enforce the law or not. The question is do you give it for performance or for passing a law? I don't know what the future of the incentive grants is.

The problem of evaluation of these ASAP's, for example, if you really start looking at how do you determine whether or not an ASAP is having an impact. Are we reducing alcohol-related crashes? First thing, how do you know what the alcohol-related crash is in a city or in a state? You have some limited tests on dead drivers--but in some jurisdictions, their basis is on who is tested. Maybe they're testing the ones they suspect. If they're testing those, you get a much higher reading than you would have

--we just don't know statistically what the incidence of alcohol in injury is. You get down to the property damage accidents where you do try to get officer judgment, but in the ASAP's we see that the numbers are increasing, because the officers are more alert to alcohol, and they are more apt to report it. So, if you look at officer judgments, your problem is getting worse instead of better.

I was talking about the governor's rep being caught in the middle. It's not any real particular trouble to get the legislature to pass legislation. My point is just the idea that the federal government's sanctions become dominant over the other considerations. I'm scared to go before our legislative committees anymore, and when I go, I have to be very careful when I mention that this is a federal program and we have certain standards that we have to meet. That gets a very irate committee chairman up on his feet. I think incentives would be a lot better than sanctions.

We are statutorily fixed in that the Act required the Secretary to promulgate certain uniform standards. It becomes a responsibility to enforce those standards, and there are groups now that are taking us to task for being lax in enforcement of the standards.

#### Panel - Contemporary Personnel Issues

Col. Dwight Pittman, Moderator: During the planning session that was conducted here in Indianapolis several months ago, one of the subject areas that came up and received considerable attention and interest was the business of bringing to this group some discussion as to some of the federal guidelines that we're seeing emerge within recent months and years. So, this panel has been assembled, and I'm sure that each of the members can bring something to us. I feel that these men will not only be able to present their program and the logic and reasoning behind some of the programs, but also to give us some insight into what we might anticipate for the future.



that I think we will have to consider today, are such things as the physical dimensions, height requirement, weight requirement, and sex requirement for employment in various types of police work.

As you know, LEAA has issued various guidelines and has conducted, on occasion, surveys in various of your institutions, implementing the guidelines and working with you to achieve compliance with the guidelines. I should stress that no one is interested in reduction of cooperation or reduction of financing between state organizations, police organizations, and the federal government, but rather are interested in insuring that the expenditure of federal funds is done in compliance with the law and that the quality of law enforcement provided by state organizations is consistent with the best the country can have.

There have been a variety of cases, mainly in the South, that have arisen recently involving testing systems and selection systems which were found not to meet the standards of the law. Morrow vs. Crisler is one; NAACP vs. Allen is another. Each of these cases tests the situation that was found in particular state highway patrols--Alabama and Mississippi--and reached a conclusion in each case that is quite important for us to consider. In reality, those cases stand for the proposition that in systems where discriminatory employment practices have been apparently imposed, and where testing and screening devices are used which eliminate minorities at an undue rate compared with the elimination of nonminorities, that severe remedies, including what is described by the court as quota hiring may be undertaken in order to insure urgent, affirmative compliance with the law. The lessons in those cases have been read by all who are engaged in this particular area of law enforcement. Many of us were looking to see if the Supreme Court would resolve what some of us view as a legal dilemma, but we are committed to the views as expressed in the circuit courts of appeals. I think that the problems confronting the Department of Justice and the problems confronting each of your organizations can be understood if you will look, for example, at the resolution reached in the Maryland State Police case.

In Maryland, in January 1974, a consent decree was issued upon agreement between the Maryland State Police and the government of Maryland and the United States. The issue was the same as in various other state police cases. The resolution was that a carefully articulated, affirmative action plan would be undertaken by the State of Maryland to insure minority participation in the state police, reach something like population parity, over a goal and timetable extending over about four years. This gave opportunities for Maryland to validate systems of testing which it had not yet validated, to proceed with height and weight systems that were presently in use, and to adjust its assessment of the variable qualifications and utilities of men and women in different areas of law enforcement. That is one solution to the kind of problem which is raised by gross lack of minority participation in the various state law enforcement programs. It doesn't have to come by court decree. Hopefully, that having been the system in a number of cases, it will not

necessarily be the system in most other cases. But we have to be concerned about several things: one, the compliance with the Fourteenth Amendment and Title 7 is within the jurisdiction of the Civil Rights Division of the Department of Justice. Title 7 is the Equal Employment Opportunity law as it is applied to state and municipal governments. Equal Employment Opportunity Commission has a discrete but important interest in Title 7 as it applies to state and local governments and their components, including police departments. Moreover, in the Department of Justice we have a serious commitment to the enforcement of all the laws of the land. Included among the laws which we enforce are those provisions of the Revenue Sharing Act, 42 USC 1221, and those provisions of the Uniform Crime Control Act of 1968, including Section 518 (b) and (c), both of which require the insurance that programs funded with federal funds are operated without discrimination in employment or otherwise, and both of which we seek to enforce, first by voluntary compliance, hopefully by negotiation of problems as they arise, and finally by litigation when all else fails and when that is the only solution that can be effectively implemented.

Lou Taylor, LEAA: First of all, let me say that my primary responsibility is to provide technical assistance to anyone who needs it in trying to implement the new guidelines that are in existence. So, it's not a matter of the LEAA just promulgating these regulations and then putting you out there on your own.

Let me talk about why LEAA came up with the guidelines. They felt that there was a need for full and equal participation of minorities and females in the criminal justice system. Nationwide, statistics show us that there are about four percent minorities in criminal justice agencies and about two percent women. That means that we have about six percent minority and women in most of our agencies, which in turn means about 94 percent of our criminal justice agencies are male and white. Now, we can say that that just happened, but most of us in civil rights do not feel that it just automatically happened, that there might be some devices that screen out. With that in mind, we'll proceed.

First of all, I'm sure you know that a recipient is defined as almost anybody who receives LEAA funds. It includes any state, political subdivision, department, agency, or instrumentality thereof. And I guess for those of us, that's kind of bureaucratic double-talk. In other words, no matter who you are, if you get the money, you're covered. It is the obligation or the responsibility of the recipient to formulate, implement, and maintain an EEO program. These guidelines do not require goals and timetables, but since I am working as a consultant to LEAA, I would ask you, how do you implement and maintain a program unless you have some kind of timetable. That's just a personal comment. If you are a recipient, and if you have 50 or more employees and you have received \$25,000 since 1968, you have to come up with an EEO program. If you have a three-percent minority population, then you must

come up with a program that includes minorities and women. If you have less than a three-percent minority population, then you must come up with a program just for women. Where do you get this three-percent figure from your service population? The guidelines indicate that if you are a city agency, your service population will be the corporate limits of the city; if you are a county agency, then your county line----to assign someone within your agency who is responsible as an EEO officer.

After you have put together your plan, you disseminate the information that a plan does exist to your constituents, you institute a minority recruitment program, and you do an analysis of your test criteria. We are not speaking primarily of just paper and pencil tests. Does your agility test really constitute an agility test, or is it physical strength? One city in Iowa requires that all applicants take a 50-pound dumbbell and be able to run up a flight of stairs and back down, and that is a test of ability. To validate that, they hired a woman who weighs 98 pounds who was able to do it, but she has her masters degree in P. E., and no one else has been able to do it. That constitutes their validity that all police officers be able to run up and down a flight of stairs.

There is a certification that must be adhered to. That certification goes to your state planning agency or to the regional LEAA. I do have one question that has been asked, and I will share it with you. If you have a person who writes a grant within your agency and they certify that you have a plan within your agency and that same person is the EEO officer, and your recruitment and selection and promotions go through the civil service or personnel department, how does a grant writer or a police chief implement a program when he doesn't control his employment procedures? That is a problem that will have to be worked out locally.

How does the LEAA determine disparity? If a recipient has 530 employees in the work force--sworn and civilian employees. If you have roughly 20 percent minorities in your service population, then if you had full utilization, one fifth of everybody in the work force should be a minority--or 106 minorities within the 530. That's full utilization. To determine disparity, LEAA has said that if you have less than 70 percent of your minority population reflected, in other words, if you have between 71 and 72 minority employees, that would constitute about 70 percent of this 20 percent. If you have less than 72 minority employees out of a work force of 530, you most likely have under-utilization of minorities and there's most likely something wrong with your employment procedures. That is the whole purpose for these guidelines, so that you have an opportunity to sit down and compare statistically how you get to selecting people to come to work for you. There's a general statement that indicates that noncompliance, that is, failure to implement or maintain the guidelines of Sub-part E, would subject the recipient to the sanctions of the Department of Justice or the EEO regulations. With that in mind, that's our quick overview of the LEAA guidelines and what your responsibilities would be as a recipient.

Peter Robertson, EEOC: You've got an awful lot of problems that confront you when you run a state agency. I heard some discussion about the issues relating to the location of a building. I've looked down my list, and I suppose they could all, or maybe 80 percent of them for the head of a state agency, come under the heading the care and feeding of a legislature. You've got budget and personnel problems as they relate to the legislature. You could go to your legislature and want another hundred people, but that's major teeth pulling. And here, with all those problems, we're adding a new one. Or is it a new one? I think it's a new one in terms of the extent of the consideration you're applying to it, and a new one in terms of the pressures that are being placed on you. Obviously, in terms of the long-run history of this country, it's not a new problem, it's a very old one. I think one of the new dimensions of that problem is one to which I want to devote the bulk of my remarks today. A gentleman from Arizona asked a question about--didn't we five years ago purge a lot of stuff out of the records that they're now making us put back in? When I say there's a new dimension to the problem, I think many of the things symbolized by that question point out what the newness is in the issue.

The term that we're dealing with is discrimination in employment, but like any operational term in the law, ultimately, we have to turn to the courts to find out what the words mean and to guide us in our day-to-day efforts. In terms of what an unreasonable search and seizure is, ultimately, as law enforcement officials, you have to look to what the Supreme Court says in terms of issues of what kind of advance notification of a suspect's rights and ultimately what the Supreme Court says various provisions of the constitution mean, and what they mean operationally for you as law enforcement officials.

Our agency is a law enforcement agency in its context. In terms of figuring out what we can and must do, we have to look to the courts for the definition of our key terms. And the key term is discrimination in employment. It's easy to sit back and say, I know what discrimination means. The Congress of the United States gave the federal government additional enforcement power over discrimination in employment in 1972. When they did so, they wrote a fairly lengthy report in which they suggested that most of us do not, in fact, know the way in which the courts today are defining the term discrimination.

The history of the term discrimination in employment has gone through three stages. The courts originally, and government agencies administering antidiscrimination legislation in trying to determine whether there was discrimination, looked at the intent of the employer, whether it be a private company or a government agency such as yours. Ten or 15 years ago, discriminatory intent was fairly easy to find. When I was a child in St. Louis, the want ad columns in the newspapers were divided into four sections--

colored male, colored female, white male, and white female. There was no doubt that we were dealing with a very simple, garden-variety violation of a concept of equal intent. And if what you're looking at is the state of mind or the emotions of an employer, the government programs that you use to deal with it are fairly simple. We had human relations commissions; we had religious groups setting up brotherhood week. We had programs that focused in short on changing the hearts and minds of people and how they thought and felt about other people. But very quickly, the courts and the law enforcement agencies charged with the administration of this kind of law understood that there was much more to the term discrimination than just the intent of the person performing the action. We started to see a second thing come into vogue and that was the concept of unequal treatment, so that what we would look at is the way in which blacks and whites were treated and whether they were treated equally.

When I was Executive Director for the Missouri Commission on Human Rights, charged with the responsibility for investigating complaints filed under that law, we got a number of situations in which it was fairly easy to identify unequal treatment. Blacks were assigned to certain types of jobs and whites to others, or blacks weren't hired at all. An investigation conducted by a government agency would focus on identifying facts designed to show how people were treated and whether that treatment was equal. I can remember going out to investigate a complaint filed by an individual alleging that they'd been denied hiring for racial or sex reasons, and you'd go out and look through the employment records, and list all the job applicants, the test scores, the education, previous experience, and race. All of a sudden you discover a black with a 12th grade education that wasn't hired and a white with an 8th grade education that was. Absent some other explanation, we have established a case of unequal treatment. You'd find discrimination, and your remedy was fairly simple. If the violation is unequal treatment, then the remedy is, of course, equal treatment. Do away with the aspects of your employment that dealt with people unequally, that dealt with women differently than men, that dealt with blacks differently than whites. That was your remedy. That's all you needed to do to be in compliance with the law. And again, your government programs to deal with it were fairly simple. They were the kind of investigation that I have just outlined, in which you attempt to identify facts showing the unequal treatment.

The courts today have developed another concept. Some people call it the impact theory of discrimination. Basically what it boils down to is that some kinds of equal treatment can be illegal. Thick and fast the court cases are coming at us. As Mr. O'Connor suggested, the lead case is the Griggs case. I hope at the end of 10 more years to really understand what it means. When we have read and understood what Griggs means, I think we will have 80 or 90 percent of the answers. Today, as I said, I'm not going to be part of that answer so much as I am going to be part of the problem. I'm going to try to visit with you about Griggs a little bit, first in its specific application, and then try to think out loud where the courts may go with it as they begin to deal with the areas of law enforcement.

In Griggs, the company measured up under both of these standards. In fact, Chief Justice Berger, who wrote the case for a unanimous Supreme Court, specifically called attention to the efforts that the company had made in its community to contribute and help in the area of black employment, donations to various black organizations, donations to groups like the Urban League, and a number of other things we might call good works. In other words, the intent of the company was not an issue, and if that was the standard, their conduct measures up. Similarly, the hiring, the screening requirements, that they were utilizing were equally applied, so if we're using an unequal treatment standard, the company is in good shape. They give the same written tests, and require the same high school diploma or its equivalency. So the Supreme Court was confronted with that fact situation and had to decide precisely how it was going to define under this new federal statute the term discrimination in employment. And to make a long story short, they looked at the impact of these testing and educational requirements. They discovered that the statistical impact was that fewer blacks than whites could pass them. And then they said that's not the only issue we need to deal with. It may be that they're still legal. The next step, they said, is we've got to find out whether this particular test really measures the ability of the job applicant to do the job. And you get the standard of job-relatedness, which I've heard maybe a dozen times in the last day and it's obviously something that is in the forefront of your minds. And when I say it's going to take us 10 years to find out what Griggs means, I think what I am saying is that it will probably take us 10 years to really figure out what job-relatedness means. The Supreme Court gave us the principle and applied it to this case, and I think it's reasonable to predict that that principle will be applied uniformly across the country to all other employment situations. The standard, as I said, is the standard of unequal treatment, but it has two stages. Unequal treatment and job relatedness.

Let me look at a sentence and break it down that the Chief Justice used, and I think the elements of this sentence really tell us where courts and government programs are going to be headed in the future. It has six elements: "If an employment practice which operates to exclude Negroes cannot be shown to be job-related, it is prohibited." I think all six elements in that are crucial in understanding what this case means. The first place, courts tend, particularly the Supreme Court, and let's be candid, particularly the Nixon Court, they tend to be conservative in how they decide cases. They tend to limit cases to the facts in front of them. And he could have said, if a test, if a high school diploma cannot be shown to be job-related, the practice is prohibited. But he said "employment practice." I think he's calling our attention to the fact that this principle applies to more than just written tests. And in fact, the Chief Justice appeared on a television interview about a year after he issued this decision and talked for a half an hour about the role of the Supreme Court, and at the end, the reporter said, "Chief Justice, what do you consider some of the more important cases of

the last two years?" And he avoided answering the question twice, and then he answered it. He said, well they tell me that the most important case is the Griggs case. I think he knew that he was dealing with a case of very broad applicability.

Then he said that employment practice has to do something for us to take a look at it. It has to operate to exclude. That's a statistical issue, and that's why you're into all these reporting forms. You're into all these reporting forms because the Chief Justice of the Supreme Court has said that it's the first thing we have to measure, in looking at this kind of discrimination, is it's statistical impact. In a case involving the police department in Bridgeport, they found that a written test was passed by 58 percent of the whites, and only 17 percent of the blacks. That test operated to exclude blacks.

The next word I have chosen to break out as a separate element is Negro. The court didn't deal with what I am going to say next. I am going to make a personal prediction. I think the principles that were applied to Negroes will be applied equally strongly to Chicanos, to Indians, to women, and so on. I think an employment practice which operates to exclude members of a particular racial, ethnic, or sexual group, will be measured by this standard. And the district court and appellate court cases coming up on sex discrimination suggest that that's a reasonable prediction. I don't think this is a black case. It's a black, Chicano, Indian, and female case.

Now what's the next step. You've got an employment practice that operates to exclude. That's our statistical measure. It cannot be shown to be job-related. Now what does it say? I heard somebody talking about the issue of height and whether police departments are going to have to reduce height requirements. There have been some statistical findings that an employment practice of limiting people to heights above 5'8" or 5'10" operate to exclude women. This person said that he was looking forward to having it proved to him that short people could do the job. I don't read Griggs that way, unfortunately. It doesn't say I've got to prove that it isn't job related. The Chief Justice said if a practice operates to exclude, it has to be shown to be job-related. What that means is that the person or organization who is using that practice has got the burden of proof. What you have basically is a prima facie case issue, with the burden of proof shifting. If somebody comes in and shows the statistics and shows that the height issue caused the statistics, then you have to prove that the height issue is job-related. What do you have to show? You have to show that it's job-related. You have to show in simple issues, testing, high school diploma, educational levels, and what have you--you have to show that the test you're using measures the ability of the applicant to do the job. Height requirement--I think the courts are going to come out in the same place. I think in the long run, even the height requirement is fairly easy to conceptualize.

I think the message of Griggs, and what the Chief Justice meant when he said, "they tell me Griggs will have the greatest impact," is that the concept embodied in this one sentence is going to require people to re-think every aspect of how they do business in the employment field. That's not necessarily part of the problem. I hear a lot of people say, isn't this going to knock the hell out of the merit system, or isn't this going to require us to lower qualifications? Fairly and honestly applied, there's no difference between job-relatedness and a merit system. Basically what it's saying is we have to measure qualifications, but qualifications for what is the issue, and the Chief Justice said, you can't measure qualifications in the abstract. You have to measure qualifications to do a specific job, and that's what we're interested in looking at. We'll have more litigation and more court cases as the courts begin to spell out what kind of evidence is sufficient to establish job-relatedness. It will take a while before we know the answers to that.

I want to talk a little bit about where we're headed and what each of the police departments can begin to do. As I talked to you, I learned many of you have already begun and are way ahead of me in your thinking. As you look across the procedures that are utilized or employment practices that are utilized by police departments, you'll begin to discover that there are a number which are going to come into some pretty careful scrutiny under this standard. I can suggest how the courts are going to apply these questions, and I can tell you a couple of the cases. In the Bridgeport case, they took a hard look at a written test which measured the verbal ability of the test taker, and they talked at some length about this concept of job-relatedness in police work. The examination used what not prepared by the police department, but was purchased by a public personnel association. The court held that many of the questions on the test really had nothing to do with the work of the police. The particular test in mind dealt with verbal ability, but did not deal with the particular qualities needed to be a police officer. I was surprised during the times I've had to talk with you at how important the issue of height seems to loom in your minds as you begin to think about the issue of hiring police-women. In the case of Smith vs. the City of East Cleveland, statistics were submitted--on what was, and I can't remember, but whatever the height requirement, only about 5 percent of women could meet, where about 60 percent of men could meet it. It was another case that operated to exclude women. The court cited Griggs specifically, and they said, can this practice be shown to be job-related. And the City of East Cleveland suggested six or eight grounds for alleging that it was job-related. Physical strength, physical fitness, physical agility, ability to view crowds, ability to drive a car, reach of the arm, ability to absorb blows, and ability to impress others with their own physical prowess. The conclusion of the court was that the East Cleveland Police Department had not shown, on any of the eight grounds, that height was directly related to the ability to be a police officer. They came up with some very interesting statistics about the injury rates based on the height of existing members of the police force, dealing with the general

assumption, the general feeling that shorter people are more likely to be injured, to confront situations where a suspect will resist arrest, and so on. The court found that the statistics in no way established the general assumption. I think the principle that has been enunciated here is that there are an awful lot of things that we feel have a significant measure of ability-- that are related to the ability to do the job. What the courts are saying is that our feelings are not enough. We have to start saying through our heads and through our analytical system, are we really getting people who do a better job? Are we really getting people who measure up, if we use this kind of measurement criteria? If you can sustain the burden of proof, no court in the land is going to make you hire unqualified police officers. If you can't, the courts are going to apply this standard.

Let's look quickly at remedies. If you have a particular practice that operates to exclude, obviously one of the remedies is that you change that practice. Mr. O'Connor suggested a second remedy that the courts are increasingly imposing, and that is the numerical remedy. Some courts call them quotas; some people who oppose them call them preferential treatment or discrimination in reverse. I don't like any of those terms. I don't think those terms accurately describe the legal situation. You don't ever find the court dealing in numbers, unless the court has first found that there is a violation of the law. If they find a violation of the law, in many situations they're going to say that one of the ways to remedy it is some kind of numerical remedy. They have been very careful in designing numerical remedies.

In a case involving the fire department in Minneapolis, the original proposal was for an absolute numerical remedy. The court rejected that, but they accepted a remedy of one for one among a certain number of the next people hired. In a number of other police and fire cases, numerical remedies have been imposed. To the extent that the numbers are already up when this analysis is conducted, a department is much less likely to have a numerical remedy established by the court. In fact, in one of those cases, the first court decree didn't impose a numerical remedy, and they allowed the decree to be implemented for about six months, and they discovered that very few blacks were getting hired, and they reopened the case and imposed a numerical remedy.

I think the moral in that is very clear to this group. The police department that's able to find a responsible way on its own of getting those numbers up is going to be much less likely to go the court decree route.

Question from the floor: We have the same practice that the Commissioner does, and I wonder if we can be challenged on saying, O.K. Mr. Smith, you're going to be a state trooper, but you can't live in this community because that's where you were born and raised. Now, I wonder, and I'm just thinking--don't anybody get any ideas--could we support that? If he's the type of man who is properly trained, and acclimated to our enforcement pattern, could we

justify moving him across the state of Nebraska some 500 miles just because he was born in Omaha or Lincoln. Certainly, when you get to the other community, inside of six months you have all kinds of friends there--

When you think about that, though, in most city agencies, many of them require residency within the city, and basically you're dealing with almost the same kind of problems, yet still your decisions for assignments are diametrically opposed. County is the same way--you have to live within the county.

As I think of this, and I don't know, maybe I'm wrong, but we give them three choices--we've only got two areas in Nebraska, Omaha and Lincoln, and we have about 18 people from minority groups in the system after a recruitment effort in September. And we were thinking, well if we get somebody from Lincoln, we'll move them to Omaha, and vice versa, but I don't think that's necessary.

When I was appointed Director, that was one of the first moves I made--to change that policy about movement of people around. It hasn't hurt our organization one bit. It hasn't hurt the supervision level, or anything else, and in regard to employment of minorities, if there's a vacancy in the community or in the area from which they were recruited from and they want to stay there, we allow them to stay there. I do have one question. What is the responsibility of the labor union with regard to the Griggs case? They continually harp on discrimination in reverse when you have affirmative action programs as they relate to minorities and females, and rather than the employees themselves or state agencies raising a fuss, I'm having a problem with the union.

Mr. Robertson: First, the union has nothing to say at all in most areas about who you're going to hire. The union operates only after the person has become a member of the bargaining unit. Thus, the union has nothing to do at all with your intake process. Once in the bargaining unit, the question of union activity and equal employment opportunity is one with which we are familiar, through a number of years of litigation. Generally speaking, we have found that the unions adhere to more conservative standards than management seeks to adopt. And generally, we have found that unions can be brought around only after a certain amount of litigation has occurred. However, an example in the United Steel Workers is perhaps germane to the kind of work that is being done in other parts of the country. The steel workers have introduced affirmative systems, have fought against tests, and have sought to participate in advancement techniques to insure proper treatment for all people, minority and otherwise, to the extent that they have cooperated vigorously in the establishment of a nationwide decree covering most of the steel industry. The industry of law enforcement is like any other, that is, that the union wants to protect what it's got, and get more if it can, and control promotions and assignments. It shouldn't be able to do that if it is

going to continue a system which has had, and if controlled that way will continue to have, a discriminatory impact. If, in fact, the union were to fail to recognize that, it would be open to litigation and open for action by the particular law enforcement agency to seek to set aside that portion of the contract.

Question from the floor: Let me make one observation. It seems that in the private sector, when litigation is brought against a private employer, and in fact, they are found guilty, it has a rippling effect, other employers pick that up. It seems to work similarly in the governmental sector. In the unions, it doesn't seem to work that way. Unions themselves--each one has to have a suit brought against them. Now that's just my opinion, but one doesn't seem to respond to another.

Mr. Robertson: I don't know the answer to the question of geographic assignment. But I look back at my basic principle, and I think if the system of assignment has the effect that the gentleman from Kentucky suggested, the system of assignment is an employment practice, and if that system operates in a way that excludes certain people, then you are going to have to find a way to work with it that doesn't operate to discriminate. It may be that the answer will be different from one state to the other. In Kentucky where you don't have state police stationed in Louisville, Lexington, and Covington, which are your three big centers of black population, you are going to come up with a different answer than you would come up with in a state where you may have some centered in Omaha and Lincoln, which I understand from your question to be the case. Another principle that runs through my head as I listen to both of these questions is the same one I uttered earlier, but I'll say it again. It may not work, but it's what comes into my head, and is the one-to-one principle.

I think, in terms of the labor union question, you're dealing in part with the fact that most of us still feel, not think, but feel, of discrimination at that stage one or stage two level that I outlined. And your white trooper, in his feelings, thinks that discrimination is unequal treatment, and I don't think he has any concept of what the courts have done as they have defined discrimination. The United States Senate, when it gave us enforcement powers, said that this concept of discrimination is one that is not even generally understood by the lawyers representing America's big companies. So to suggest that the average person serving in a state trooper position is going to understand it is an unreasonable thing to expect. I think that increases rather than decreases your responsibility. None of your organizations are so big that each of the state superintendents is not able to deal on a one-to-one basis with each of your troop commanders. It doesn't take long to communicate on a one-to-one basis. But again, if you can find a way to keep cool as you communicate this down as a legal issue, I think an awful lot of the heat

will be drained out of it. Not all, I think you will have some heat and reactiveness. Let's not kid ourselves. I give you the legal presentation that defines the third state of discrimination. We all know that the highway patrols of this country 10 years ago were discriminating at stage one.

Question from the floor: Pete, you and Lou have touched briefly on this job-related test. I wish you would pursue it a bit further. But also, if you have a layman who comes to you with a desire to pursue a career as a state trooper. So you give him a job-related test--but I question that a bit. I'm not trying to be sarcastic at all, but did you take a law test before you became a lawyer?

Mr. Robertson: Yes--but it's being challenged in the courts on the same ground. And I suspect it will have to measure the same standards. I read you that quote from the Cleveland case in which the court was obviously struggling with how to deal with it. I can tell you some of the tests that aren't. One test I saw wanted somebody to know the difference between a parasite and a parasol. I just don't understand how that measures ability to be a police officer. It's not an easy question. You have some thoughts on this one, Bill?

Bill O'Connor: Yes, the issue of such questions as a parasite and a parasol sounds sort of superficial and silly as a question. I've heard it argued emphatically that whether someone can tell when they see a picture is it a parasite or a parasol and check the right box proves whether they're attending to business, whether they're good at filling out forms, and whether they are going to effectively perform the clerical activities which are related to the work that they are going to do. And I have heard it just as vigorously said that it's a ridiculous question, and it doesn't have a damn thing to do with whether you can be a state trooper. With the kind of confusion and that's all it can be properly defined as, that exists in the art of testing as to what is and what is not a job-related test, and the kind of disagreement that exists not just in the private sector but in the public sector as to what constitutes validity and whether, for example differential validity is an appropriate concept or is not, it's almost impossible for anybody to say what is a job-related test. I don't know. I don't think anybody knows. I think you can say that a test which is given upon which someone scores, say 100, and then over six years of performance they turn out to be for some reason a washout in the particular activity which they pursue, it might be said to be an invalid test. It's easier to go back and say no, that's not any good, then it is to go forward and say that these things are good. That leads you to a conclusion.

I think it leads you to the conclusion that what you need to do is to find a system of selection--we're not just talking about paper and pencil tests. We're talking about oral interviews, physical agility, appearance, a number of things--and attempt to find these qualities that are appropriate and helpful in law enforcement, as compared with not helpful in law enforcement. I think

that there has been in one city a patrolman test which would probably not be relevant to state trooper work that is reasonably valid. I don't know of a valid test for state troopers. It seems to me that LEAA is probably investing a tremendous amount of money in going in this direction, and that with the questionable validity of any existing instrument and the difficulty obviously encountered on the basis of statistics, the use of any test at all is a very delicate and perhaps dangerous matter. Perhaps a non-test system of selection is appropriate--a non-written test. All of us know that the first test you're given when you are a kid is going to be some kind of standard IQ test, and that will determine whether you are in the fast track or the slow track in kindergarten, for goodness sake. And then when you get a little further along you begin all the aptitude tests and God knows what. And when you get to the end of high school, you'll be given another test for college, and another test to go on to professional school, either law or medicine or accounting, and concluding those professional schools, you'll be given another test to see if you qualify to practice the profession. Well, I'm damned if I can prove that any of those tests that I have ever been given proved anything except that I could pass a test. And in any other context, I think the answer would have to be the same. One of you asked about lawyers. It happens that certain law schools have the practice of admitting the graduates of the law school to the bar without additional testing. I've met lawyers from West Virginia and Wisconsin who were admitted to the bar that way, and those who have come out of other places, and I have never seen a significant difference in the ability to perform.

When we had the session in Reno, Mr. Pottinger challenged the group there to the fact that the federal government many times imposes guidelines. What are you doing as a group, and I mean this sincerely, to be sure that the federal government adheres to the same guidelines that they are perpetuating on you? Maybe that's an issue that your group ought to undertake.

Let me comment, and separate two issues that I hear blurring--one related to the Republican and Democrat. I don't know where I come out on the Republican-Democrat thing. Just for fun, how many states have a similar requirement? Six. And it started out with a goal of keeping your highway patrol out of politics, which I think is a useful social goal. Let's analyze it through in terms of what the courts are doing. I would distinguish the members of the Federal Communications Commission which must by law be bi-partisan, as a matter of federal law, from the members of the Indiana Highway Patrol. Federal law does not permit us to consider partisan affiliation in hiring the staff members of the FCC, and in that context, I would still say, and I may be wrong, that when the courts confront your fact situation, they will apply these principles to it. And if the foreseeable effect of your employment practice, i. e., 50-50, is to exclude more blacks than whites, then the court may require you at least to the extent of dealing with the elimination of discriminatory practices, to modify that state law. Another general principle that I would apply is that the existence of a state law requiring you to do something is not in and of itself a defense for a discriminatory employment practice. A parallel situation would be what we

call the state protective laws, which set certain maximum hours or weight lifting for women. Private employers would fail to hire women for certain jobs, saying that if we hire them for this job we are violating a state law. And the federal courts came along and said that state law causes you to discriminate against women and is no defense and in this context is invalid. I would think they would apply the same principle here, but who knows? We'll probably end up with a court case some day, and we'll find out.

Let me add something to that. I promised I wouldn't read much, but there's a quote from another Chief Justice Berger decision in which he is dealing with remedies. He's talking about a numerical remedy in a school case: "It looks like discrimination in reverse. All things being equal, we wouldn't require a remedy like this. But all things are not equal in a system that was constructed and maintained in the past to enforce segregation. The remedy for discrimination may be administratively awkward, inconvenient, and even bizarre in some situations, and may impose burdens on others. But awkwardness and inconvenience cannot be avoided in an interim period when remedial adjustments are being made." I don't know that that answers your question. But we have to come up with some new ways. What we're doing isn't working, and the answer to your question on how to get more blacks is to do whatever it takes to get them. And that's not a very good answer, but it may take some really new ways.

John Flood: ... basically, when we go in to a city to organize a police department, it is not very difficult on our part to get the patrolmen to affiliate with our organization. When we started, the men who started with us, although they might be called radicals, basically had very good positions within their police departments. And the departments that started our organization were not the lowest paid departments in the area I'm from. They were some of the highest paid police departments in Cook County. We formed together to have a voice within our profession to our administrations and to the city officials that we have to collectively bargain with.

When we organize a city, the basic thing we'll do is meet with several leaders of the local police department, usually the patrolmen, and we'll explain our organization to them, and once explaining our organization, we'll meet with the majority of the patrolmen. We'll explain it further. We have little or no difficulty in organizing those men. After we organize the patrolmen, we send a letter to the municipality--the Mayor and city council--advising them that a majority of the police officers of that police department have joined our organization for the purpose of collective bargaining. We request recognition of our association as a collective bargaining agent for the men we represent. We want to sit down with the city officials and discuss what we want in a sophisticated and intelligent fashion. We do not want to walk in and throw out demands upon them. We want to do it without chaos, without a lot of ranting and raving at city councils.

With the police union I realize that a number of chiefs of police are psychologically against what we represent. But every time that I've ever sat down and discussed with a chief of police what he wants for the law enforcement profession, and what police unions want for the law enforcement profession, they are basically the same. The chief in most cases has come up through the ranks and has gone on to top management. If he was to say what he wants--better pay, better education, better training, better equipment--and the union was to say what they want, both of them would be the same. The difference between your position as administrators and ours as union officials is the method of how to go about it. By your very position as a chief of police or a top administration official within your department, you are considered management throughout that organizational structure of the city or the state. You are interim management to that city or state government along with other management such as the fire chief or the superintendent of public works. And when a chief of police at budget time goes to his city manager or city council or legislature and he states, this is what I want for the next fiscal year; I need so much pay for my men, so much equipment, so much for training, on down the line; when he goes in to the people he deals with, he is management dealing with management. And when he presents his program of what he wants for a given fiscal year, the top management of that organization or structure subsequently makes a decision, and they say, this is what we're going to give you. And what they're going to give him might not be what he wants, but once they have made their decision and said this is exactly what you are going to get, it is the chief's job by his very position as top management to go back to the men in his department and sell that particular program. It's not his job to go back to the men and say, fellows, you're getting hurt, or you're not getting what you should get. It's his job to go back and sell exactly what top management has told him that he will get. If he was to go back to the department and say to all the men, you're not getting what you should get, and start arousing trouble among the men, he's not going to be the chief of police for too long. The difference between the chief's position as a manager and the union is that the union represents the men and the chief is interim management. The union basically represents the rank and file. 98 percent of our organization is patrolmen, and when we go into the city and say what we want for a given year, and the city manager or council says, no, we're not going to give it to you, if we feel that we are not being treated in a just fashion, we can fight the city for what we feel we need for law enforcement.

A union, gentlemen, I think in the police field, has a psychologically bad connotation, and I think it comes from a lack of education on the subject. When I say to you I've been a police officer since I was 21 years of age, if someone would have said to me several years ago, John, would you walk a picket line, I would say, forget it. It's not my style. If somebody would have said to me, would you strike as a police officer, I would have said no. If somebody had asked me what I think of unions, I would have been psychologically against it. But a union, if you break it down in its essence, is nothing more than a group of men coming together who have a common purpose, to better themselves. Nobody could convince me that those men are there to discuss how they can hurt some part of the administration or the police department.

Just because they are patrolmen does not mean that they lack intelligence or they're not concerned about their profession. And when they sit down and start discussing what they think they need, they're not trying to tear the police department apart, they're trying to have a voice within it. As administrators within any organization structure, so many men are going to become superintendents, or captains, or major management personnel. The vast bulk of the people involved in law enforcement are at the patrolman level--75 or 80 percent of the men. Certainly because those men do not go on within rank does not mean that they are not concerned with what affects them. When a fellow goes up into management, he frequently has a tendency to forget what it is like on the street. You tend to forget the little things that bothered you when you performed that street function. What a union does is try to represent the men on the problems they are having.

In the cities that we go into for the collective bargaining process and requesting a police labor relations contract, in most cases, the chief of police or the top administration of police department have little or nothing to do with the decision on whether or not we are going to get a collective bargaining contract or we're going to be recognized. The decision basically rests with the political officials of that particular city. The chiefs of police, however, once a union is recognized, should sit in on the collective bargaining process, because when a union goes in in most cases dealing on a city or a county level, they're going to be dealing with a manager or council. When they go in to negotiate, they are negotiating a written agreement for a given year. In most cases, those gentlemen on the city council are not familiar with police administration. Certainly, the chief of police should sit in on negotiations. But he's going to be sitting on management's side of the table. He's going to find in many cases that he's not going to have the authority to make decisions because the decisions are going to be made by the upper level of management or the higher political officials of the city. But he should certainly sit in so he can give his voice or his opinion on what should be given relative to policies and procedures within the police department. When we go into a department, our requests will cover a large area. We'll start out with pay and other fringe benefits, and we'll go into policy and procedures of the police department and grievance procedures which will affect the managerial authority of a police department in exactly what the chief of police or his administration can do relative to discipline. These are basically what our requests will cover. We might go a little further, like I say in the area of policy and procedure.

In the department that I come from we have a general order book about that big--I don't think you can walk out the door without violating a general order. We go into a number of those general orders as to whether or not we feel that they're equitable rules and regulations or policy and procedure as a matter of negotiation. If the chief is not sitting at the table when we're dealing with the management, they're not going to understand the thought processes behind the policies and procedures of a police department. The chief should be there so that the other parts of management do not give away the complete store.

When we formed, as I said before, the departments were not the lowest paid police departments around, they were the highest paid. We went to the men, and we talked about representation. We talked about having a certain amount of power to deal with the political officials or the police department. The union is a power structure. When you bring men together, you are building power. If the men stand up behind us on a given issue, the place power into the position that I hold. We're building an economic power--to hire the attorneys that we need to represent us, to hire the staff to represent us in dealing with the cities. I don't think from my experience that police chiefs and union officials or representatives of the patrolmen should be at odds. In most cases when we deal with the police chief, the basic matters that we deal with him on are disciplinary matters. We never go in to a chief of police or the management of a department when we feel that the man who has violated a rule or regulation is totally or completely wrong or out of place. We don't go in and try to dictate to the chief of police. We try to go in and discuss with him the problem and to resolve the problem without any chaos or yelling or trying to justify an unjustifiable situation. The men want somebody to represent them when they have a problem, because in many cases he cannot handle it himself. And if he feels that management made a disciplinary decision against him, he feels that he has to have proper representation to protect himself, even though he might be wrong in fouling up. We've had men in our organization--and I'd be willing to bet that 90 percent of the patrolmen that call our organization for representation on a grievance matter that would normally be handled by the chief of police, 90 percent of them are wrong. They have fouled up and their position is not a just one. But they have a tendency, even when they're talking to their own union representatives, to rationalize what they have done. Half the time when they call the union, they'll give us only 50 percent of the story of what happened, and they'll tend to play down all the situation to rationalize their position. So, 90 percent of the chief's disciplinary action, from the mind of the union officials, is right. But it depends upon what he is going to do or how much discipline he is going to give. What we do as representatives of the men is try to go in and get a fair and equitable decision. When the union representatives are good and intelligent, when they deal with the chief of police, they're going to be able to deal with him in a logical manner, and they're not going to be screaming and yelling at him. And the union official that you would deal with if your department is organized, if he doesn't know what he's doing, you're going to have a problem in dealing with that organization. We, as representatives of the men, are in the same position. We'll frequently go into a police department and the chief of police doesn't know what the hell he's doing. We try to talk to the man, and if he's not intelligent and doesn't handle his problems in a proper fashion, we have a problem in dealing with him.

The police union movement in this country by and large is a new movement. I've been involved in it for a little over six years, and I basically wrote the police labor relations history in the state that I represent. The basic history

of it, as I see it from a union point of view, is that in 1919 in Boston the police department went out on strike--2,000 to 2,500 men, as I understand. They went on strike over issues--and I'm sure they're not much different than they are today. When the Boston police department went on strike, the entire police department was fired--2,000 men were fired. In fact, Calvin Coolidge was Governor of the State of Massachusetts at the time, and I think he rode the publicity of that into becoming President. The next militant action or strike by police officers didn't occur in the United States until 1966--eight years ago. And what happened as I see it is in the late '50's and early '60s in your major cities like New York and Detroit, the police officers started to organize. It's a rather new movement. If a chief of police doesn't feel that his department cannot be organized, I think he's making a terrible mistake, because I know from our position, that eight out of ten police departments that we would talk to, where we would talk to a majority of the patrolmen, we would organize that department into a union-type organization with no problem whatsoever.

Any police official who looks upon a union as something he is going to fight and something that will never happen in his department, in my estimation, is also making a mistake. He should treat it in an intelligent manner. Most police departments are now becoming more demanding in what they want. The Fraternal Order of Police is a union. The IACP is a union. The American Medical Association is probably the most powerful union in the United States. In my mind, the major concern as far as what is the trend in police unionization, I don't think that rank and file or patrolmen of the police departments throughout the country, from my experience, are educated enough to unionize unto themselves to form either a national or a large police union. I tend to think that police officers are going to be absorbed into other major unions that are affiliated with the AFL-CIO. You have organizing policemen right now the American Federation of State, County, and Municipal Employees. Teamsters organize them. And I think one of the problems is where do policemen go for organization? I think that could become somewhat a problem because I don't think the leaderships of those organizations are going to understand the police structure, problems, or administration. I think the second problem is keeping the men responsible, because once they organize and realize the power that they can have, their leadership is going to have to keep them responsible. When we settle an agreement or when we're dealing with a large group of men, we don't get 100 percent ratification. We have our militants within the organization. I don't give a damn what you give them, it's not enough. Once they realize the power they can have as an organized group, their leadership must remain and try to keep the group responsible with their recommendations as leadership. In many cases, when they come together they start realizing what union power is, many times you're going to see where the leadership will not keep the men responsible.

You could say that as the president of an organization, I'm in a political position because I'm responsible to my membership, I am elected by them. A lot of times, I'll feel that something is good, but my rank and file will not. Frequently, the rank and file will not listen to the recommendations of the leadership. A union is a democratic thing. A lot of people would have you believe that the president of a union has some sort of omnipotent power to raise his arms and say everybody's got to do this. It doesn't work that way. The patrolmen of police departments are not stupid individuals. The way they go into an action is when they decide for it themselves. If I was to go into the Evanston Police Department, which we represent, and say gentlemen, you have to go out on strike, or you have to picket, they'd look at me like I was nuts. They'd say, what are you talking about? Because they make a decision to do a particular action. The leadership is only in an advisory capacity. What the union provides to the local cities is the expertise and technical know-how of how to collectively bargain. My job as a police labor relations representative is not to know how to drive a squad car or patrol the city or be a detective or something like that. My job is labor relations, collective bargaining. That's my field of expertise, and the average police officer has no knowledge within that particular area. His job is being a policeman. The union provides him the representation to deal with his administration, be it the department, the city council, or the state legislature. The union's job is not to know a given police department completely. It's their job to know the process of labor relations. A lot of times when we go into a department, the chief of police will say, I don't want outsiders coming in here. In most cases, he's better off with outsiders with experience in the labor relations field than he is in dealing with his own men, because they won't have that experience. Many times they'll fight the administration or the chief of police over an issue which they really shouldn't be fighting over, if they had proper guidance and advice, they wouldn't be involved in a fight. We don't go in to pull the police department apart. We go in to resolve problems, not to start them.

-----something that has happened in strikes in the private sector, where you have violence and damage. Whether I approved of it or not, in a strike situation, it's going to happen. Frankly, I have never condoned any violent action. Has it been discussed? Absolutely. I think what's going to happen in an organization such as ours, depending on the moral fiber of its leadership within any given structure, if you have 1,000 guys, you're going to have 10 percent of them that are really radical. I don't give a damn if they're policemen, or priests, or rabbis, or whatever the hell they may be. I think if I don't condone something--I say no, don't do that, I don't want to hear it discussed, that they're going to go out and do it anyhow if they're involved in a tough situation. We lost one strike in a city in the northern half of Illinois where the entire police department was fired. At the time of the strike, those men never really believed the city was going to fire them, although we felt from our level that it could happen. They did discuss militant activities. It started the more desperate they got. When you start to take a man's job away from him, you're taking the dearest thing that he has. He tends to forget what he does for a living and what his professional ethics are when he's involved in a battle. You will find leadership that possibly will condone that. It depends upon the leader of the organization.

Question from the floor: Would your organization recognize the picket lines of another organization?

Mr. Flood: Certainly, as a fellow union, I'd have sympathy with them. One of the problems that police unions have had is whether or not if police unionize they would have the problem of having to recognize other picket lines and not perform their law enforcement function. It has not been the case. We have a job to perform. Let's say another union is out on strike. We still have to go out and do our jobs, and they do. We've been on strike in eight different cities, and we never left the city underprotected. We had other police officers that came in and performed a certain amount of the functions. I don't think the fact that policemen unionizing, or even if they're affiliated with the AFL-CIO, would stop them from performing their particular functions if another union or organization struck. They would still go in and do their jobs.

I think it would be foolish to say that isn't going to happen, because it's already happened with the fire departments. We had one who refused to cross the picket line at a fire---

Well, labor relations in the public sector is a new field, and both the union representatives and the management are learning. If you're saying to me would firemen honor a policemen's picket line or vice versa, it depends upon the given situation at a given time. Let me give you an example. The City of Evanston recently had a firemen's strike for approximately three days. We represent the police officers of that city. We had negotiated a contract with the city that we considered was equitable. Our representatives went to the City Manager and told him, don't have us perform their functions. We're not going to go out on strike in sympathy of them, because it would have been a violation of our contract, but don't order us to start performing their functions. Other employees did start to honor their picket lines--the public works employees did. You might have it. It depends upon the situation. From my position, I've seen police officers involved in a losing strike, and I never intend to lose another one. If I see the police officers of a department vote to go on strike on an issue that I feel is just, and the political administration of that given place tries to fire them, I don't give a damn what they do. They're going to win that battle. I'm not going to stand around and watch policemen get fired over an issue. In most cases it's not the chief of police, it's the politicians that are making decisions. In the cities we deal with the chiefs have no power to make a decision really whatsoever, unless it's within the department. We're not striking against the chiefs of police. In most cases it's over issues with the politicians. Most of our strikes, by the way, were over recognition of our organization--to exist as an organization and be dealt with as one. It wasn't over money or disciplinary problems. It was the right to exist. Like I say, if you have good, intelligent union officials, you're going to be dealt with in an intelligent fashion. If you have stupid union officials, and they are around, you're going to have your problems.

Glen Murphy: I appreciate the opportunity to be here and talk a little about the labor movement in law enforcement. It's an area that I have been spending a considerable amount of time in lately. I thought I would develop some of the overview of the labor movement in the United States and some of the specifics as we go along. I think the place to start, obviously, is at the beginning of the development of the Public Safety Labor Center within the IACP which is almost four years old now, and it's interesting that it took two or three attempts even to get it started. There was a great deal of resistance at that time to even getting involved in police labor movement, even from a management perspective. But I have seen a tremendous change in this attitude over the last couple of years. With the development of the labor center, we have done a study of an overview of police labor activities in the United States. We have written a monograph on issues and position statements on the labor activity.

One of the things we always have a great deal of difficulty with when we talk about the labor union is what is a labor union? A labor union is anything that looks like, acts like, talks like and walks like a duck is a duck. Any organization that is interested in and is active within the administration of a department in terms of employment, conditions of employment, is a form of labor union. In most jurisdictions, other than the 27 jurisdictions that now have collective bargaining statutes, the only difference between a labor union and what we see is that they are recognized by collective bargaining statutes. The historical development of militant activism in law enforcement shouldn't need to be reviewed, but sometimes I think it should be reviewed. I hear managers saying I won't ever have a union. There'll never be a union in my department. It's like a form of the plague that will go away. I think the person who has that attitude is probably the first one who will have a union, because police unionism, if you have it in your department or not, and I don't agree with John that you have to have one, I think it's very much within the control of administrators, but it's a full time job. As I go along, I'm going to point out some of the things that we found.

The first thing that we found in our study across the country, including state police agencies, is that they're not prepared for unionism. I did not run into a state that had within it in most of the jurisdictions that we studied, that was prepared for union activities at the time that union activities came around. What they were doing all the time was fighting after the fact. That's like going into the football game and giving somebody 21 points and trying to catch up. When you negotiate your first contract and if you negotiate away the farm, and then try to get it with some simple clause like a past practices clause in a contract that you have put on the bargaining table as a practical fact without realizing what that is, you may find, and most departments did find, including New York State, Pennsylvania State-- when they went into their first contracts, the farm was pretty well given away.

A perfect example of this is a city that we worked in up in Connecticut-- New London. In New London there was the negotiation of a contract at which the chief of police was not even familiar with the terms of the contract when it was negotiated. When the contract was negotiated, he had everything based upon seniority--the promotional system, transfers--he couldn't make a transfer without talking to union representatives. Many people say, well, this isn't going to happen here. John says that state police agencies are hard to organize because of logistic problems, and I agree from John's point of view. I don't agree from the point of view of AFSCME. I don't agree from the point of view of Teamsters, which is the most active organization in the country right now. They're doing more organizing in the Southeast, particularly, than any union in the country. They're taking police departments that have very good salaries and generally very good working conditions. But if you would look at the state police agencies in the country, and there are three or four of them, gentlemen, where if you're a patrolman on that department and have four children, you qualify for food stamps. I don't think if I was a union organizer I'd have a hell of a lot of trouble organizing those state police agencies. That's a fact. I'm not going to tell you who the four states are. The interesting thing in those four states I haven't heard any pronouncement from the administrators of those departments, publicly, about this as a fact in their states.

One of the difficulties that many of us have in the departments is the department doesn't know where the chief stands on many issues. I realize the ramifications of governors and state legislators and this sort of thing. But there are many jurisdictions in which the officers themselves have no idea of where the chief really stands on economic packages and disciplinary practices. They get it from somebody else, not from the administrator. This is one of the things that has caused a great deal of difficulty across the country, at least in what we found. What is the chief's position, they will ask, with regard to salary increases? You know as well as I do that most of them say, Aw, hell, he walks in and whatever the governor gives him, that's good enough. This is an attitude that has held because in many jurisdictions they never know that the commissioner's recommendation is. There are two things in state agencies to look for. By the way, economic issues are probably the shortest range benefit that anybody can get. It has the least effect. The militant activities of other groups, pressure groups-- your officers and the officers across the country have seen the active, militant activities of all sorts of pressure groups--the students, the civil rights activists. Most of the police officers in your agencies were involved, and they saw government crumble when it came to demands--they saw government lose. But our officers, viewing these activists over the years, have seen that it can be successful against government. They see this as a form of strength, and they will tend to use it.

One of the things that they will see during this period of time is that there isn't any outlet for their job grievances. What do they do with a grievance? and how quickly is it administered? and what is management doing about a

grievance? For example, one of the areas that John mentioned this morning, and I think it's one of the things that would make it very tough for John to organize a department, and I don't know that I'm recommending this or not, but if in disciplinary actions a police officers was allowed and counsel was retained for him in disciplinary issues. This is one of the largest grievances that we find across the country--that they are not represented or not allowed representation in disciplinary procedures. By the way, I don't think disciplinary procedures should be part of a collective bargaining agreement. You should keep it out. This is an issue that is very sensitive to the officers in a department, and they generally do not see management giving them this activity. For example, how many of you when you have a civil rights complaint filed against your officers that's being investigated by the federal agencies, have one of your command officers present and help him in the civil rights investigation against him? Most of us do not. Here's an officer who has an allegation -it's not a charge, it's an allegation against him, and he walks in all by himself, and he's involved in an investigation, and we haven't even assigned a ranking command officer from the department to sit and advise him of what to do and not do. I'm sympathetic with that problem. I remember when I was a young officer I had such a charge brought against me, and I was even a lawyer at the time. You as police chiefs and commissioners across the country have attorneys available to you when you're faced with a lawsuit. But under the law, these officers are individually liable, and they know it. It's an awesome thing for a young guy to come home and tell his wife, I've got an investigation against me that may cost me \$100,000. We know it's not going to, but to a young trooper, it's a frightening thing. And no representation is available to him.

There has been a success in the new militancy in law enforcement agencies on the part of unionism. For example, from 1964 to 1969, police salaries increased over 38 percent. This is also the time that the most active union development occurred. This is in contrast to a 6.7 percent per year increase--or a 4.1 percent increase over the same period of time for white collar and factory workers. It shows a disproportionate increase in the economic package as far as officers are concerned.

Now what are the types of organizations that are around, and what are they like? FOP, for example, is a police union, and the FOP, although allegedly a benevolent organization, is the collective bargaining agent, the determined unit for many, many states and cities. One of the difficulties with the benevolent organizations like the FOP is that they were historically a benevolent organization. Many people, many command officers, and perhaps even many of you, may well, in your states, belong to the FOP, and this has caused a great deal of difficulty. I was in a major city in one of the states that is represented here, and was talking to the chief of police about who is the determined unit in collective bargaining. Is it a sergeant, a lieutenant,

a captain--who is he going to bargain with as far as unit determination in collective bargaining, and it's an FOP jurisdiction. The chief of police in that community is a member of FOP and all of his command officers are. So when we talked about the unit determination, he said, well, I've never really thought about it too much. Is it just going to be troopers? Are corporals and sergeants and lieutenants going to be in it? In the FOP it goes the whole border. Minnesota, for example, recently had a determination by the labor relations board that all sergeants in the state are in the determined group, because of the fiat, or lack of decision-making process on the part of command staff of the department, whoever that may be. The labor relations board made the determination that they are now in the determined unit and they are not part of management.

Well, in a state police agency, in my opinion, if you lose sergeants from management, in many parts of the country that you serve, that's your ranking officers. And certainly, in the night time, you don't have a hell of a lot of management left out on the street, if you lose sergeants. This was very simply lost because all they said is, they don't hold them out as management. They don't treat them like management. They don't look like management--even the color of the badge and the shirt was different. They don't have the prerogatives of management--for example, could they suspend an officer? Labor relations took a prerogative away from management and made a decision which I think will be very difficult to live with. Personally, I don't think supervisors belong in the determined unit. I think John will agree with that.

ICPA is another major union in the United States--the International Conference of Police Associations which is a new name that's kind of a take-off on our union, I guess. This is an association of independent unions, and they claim to represent about 209,000 officer. The FOP represents allegedly about 90,000. ICPA has moved toward being a national union. The FOP's development has been on the basis of states. IBPO, International Brotherhood of Police Officers, basically out of New England, is currently moving in the United States, and as a matter of fact, it's the only union that has organized a major city since World War II, and that was when they recently won the election in Washington, D. C., and now represent the D. C. police department which was a major feather in their hat. Washington was represented by the same thing that many of you are, by patrolmen's association. The Patrolmen's Association in Washington started being completely dominated by senior patrol officers, some retired officers of other ranks, even retired inspectors. Their interest became more in the benefits for retirement, and not the interest that you would expect for the level of execution. When they went to the three agencies, tried to organize the city, and it went to a lawsuit of who was eligible to organize Washington, D. C., IBPO was ruled eligible, and they won the election which is a significant thing. One of the symptoms that you want to look for if you're looking for organized labor in your department is the age spread of your level of execution, your patrol level. If the patrol level has two basic age groups, a relatively young group and a relatively

older group of officers that are being considered for organization, the opportunities of that agency being organized. . . . . by that I mean can an officer belong to a union that's not totally police officers. There isn't any question about the legality of police officers joining unions any more. They do have the right, but do they have the right to join a union that's not homogenous police officers, which is an interesting issue and it borders on the issue that was brought up this morning about would they recognize someone else's picket line. If they're, for example, Teamsters, and Teamsters went out on strike, would or should they recognize other unions. That issue did not get to the court. It has not been to a court in any state or federal district court, but the issue may be resolved within the year because there is a chance that two of these issues will come up. But it's an interesting issue of the types of labor organizations that they can join.

The issue with AFSCME, all the other major national unions, as opposed to independent, is purely a matter of growth, economics, but the problems, I think, remain the same if it's a local union or a national union. Some of the things that they are concerned about--first, the problem that I've seen with the work that we're doing is that people, administrators, use the word management prerogatives. Well, management prerogative is horseshit. There isn't any such thing in collective bargaining. There isn't any such thing as a management prerogative when you get to collective bargaining issues. When you're involved with union activity, anything that you don't put out on the board or get into the contract is a management prerogative. Anything that gets into the contract is no longer a management prerogative. It's a game. You may look at, and many agencies have looked at, an issue that's out on the board, for example promotional issues. Fairfax County, Virginia, just went with the Teamsters Union purely on the basis of one promotional examination. That was a chip that was out on the table and management failed to draw it in, or keep it off the table in the first place. So, they lost that issue and they have now become organized with the Teamsters. One of the highest paid agencies on the east coast. But management tends to look at the fact that these are certain prerogatives. The disciplinary issue is a management prerogative. I agree, it should be. But when you're dealing with a labor organization, it isn't until you keep it that way. I mentioned earlier some of the things we saw up in New London, Connecticut, where a chief of police gets a past practices clause within his contract that he no longer has any prerogatives left.

Let me talk about a couple of things that I think are unfortunate that are occurring. Many of us are involved with labor relations--we're all involved with labor relations, whatever you want to call it. I know the people who represent John Flood in his union. And he's got some of the finest attorneys in the United States to represent them. Let me use the Connecticut case. In Connecticut when they came in and organized the New London department, they had one of the finest attorneys on the east coast in labor relations. They had a retired Coast Guard captain as the personnel officer of the city.

When he met with the representatives who wanted to organize the department, the chief of police was not present nor was a representative of the chief present. And they put in such clauses as past practices clause without even recognizing what it was. Cities tend to give away anything that's non-economic, if the police chief isn't there. It doesn't cost them any money. There was no discussion with the city, and this is true in some of the state agencies, of what they were going to agree to negotiate and what were not negotiable. Do you think John will go into a city with his union that they haven't decided long in advance what their shopping list is going to be? I could give you 10 or 12 things he's going to come in and ask for right now. But in Connecticut and a couple of other jurisdictions, they hadn't even talked it over. There's an issue that's involved there that you should consider. That is, should the chief of police or the police commissioner himself be involved or should he have a representative, and this is really an important issue. Many of us probably could sit in at a bargaining table, but probably most of us should not. A representative who you have the utmost faith in should sit there, and who is strong enough, and that the ground rules of what's going to happen occur before you get in there, and that you have had a pre-meeting, conference of what you're going to do. I don't care if you just have a troopers' association, like Michigan. When you meet with those people, it should be a well-considered, thought-out agenda of what you're going to do. What kind of representation, how, do you have on your side? Unfortunately, most of the jurisdictions that I have seen, the cities and states have not been represented by people who have any labor-management knowledge. The city attorneys, and I'm not putting down the city attorney, although maybe I should--Shakespeare said the first thing we should do is kill all lawyers, and maybe he's right. But we should kill all of them who aren't prepared to go in and discuss the issues that are involved. Most of the city and state attorneys do not have people on their staffs who are as qualified in labor management activities as the persons who are represented by the unions. And as a consequence, you are a loser walking in. This is something that really should be considered, and it's not an area that you can learn overnight, because it's an area that we really haven't spent any time in learning. I'm not talking about you developing a good labor relations agency within your shop to fight unions. That's not a win-no-win situation. I have seen jurisdictions in which unions were very strong and very good. For example, in Portland, Oregon, the union contract out there, the union had to negotiate into a contract educational incentives, leave of absence for education, professional training, no civilian review board-- and there's a whole list of them--things that normally you would look at as "management prerogatives." So when you're going to say a union's good, a union's bad, there are great shades of grey, and a lot of it depends upon the city that you're in and the kind of manager that you or your people have been.

Let me just go through a few of the things that the union activity--the first thing that they want and they need to be successful, and that you, in turn, should think of. I'd like to go through this list, because what we see

when we go into communities--here comes a union man with a shopping list, and these are the things they're going to negotiate for. Now when John goes in and sits down to negotiate a contract, or comes in to organize a department, he's going to ask for things that he doesn't expect to get. Oh, sure, he's going to take them if he can get them, but he's going to ask for them. And the interesting thing is generally the city or state hasn't prepared anything in return. And why not? For example, one of the things that is incidental to recognition--recognition is the big issue, there's no question about that, --and by the way, if you don't know your state law on recognition of unions, let me suggest that you have somebody inform you right away. There are states, for example, where if you pick up a series of cards off your desk--Wisconsin happens to be one--and here are a group of cards that represent 51 percent of the department, and you just pick them up off your desk, you have, in fact, recognized that as a collective bargaining agency. There are nuances in some of these state laws for collective bargaining purposes, that really should be considered by you. What is one of the first things during or after recognition that they're going to want? One of the things they need is check-off, as I mentioned. Dues check off. It's very difficult, if John's dues are \$96 a year, and it's vitally important to him that one of the things he gets negotiated in the contract right off is dues check-off. That you collect the money for him, because it's a very difficult thing to collect that \$96 independently from the officers. And this is one of the things even from the private sector, that you can see is a very difficult thing. There's nothing wrong with dues check-off, if that's what you want. But what I would recommend is that if you're going to give it, you get something in return, or you keep something out of the contract. Bulletin boards are important. How do they communicate with the people? Use of department facilities for meetings. Time for organizational business. For example, in New York City, for their 11 unions that they have, they give leaves of absence practically to all the presidents of the unions. But what kind of time off for organizational business are the people going to be given? This is important to the membership of the department when they're organized. What kind of agency shop or membership clauses are you going to have? Now there is some case law that's just recently out in this area, that a person does not have to belong to an agency shop. By that I mean where everybody within the department must pay union dues. But the case has held that if you have a collective bargaining capability, that everybody in the department must pay a pro rata share of what it costs for collective bargaining on the part of the union. So if the union dues are \$100 a year and it's determined that \$50 a year of that is used for collective bargaining purposes, which must be audited, by the way, then that amount of money may be pro rata to each individual within the department. Again, this is a dues check-off type thing, and is something that is important to be considered. These are some of the small issues.

I want to talk about a couple of things that I think are more important that we have found across the country. One of the things that we're finding is in the whole area of the use of attorneys. Should you or should you not provide it, and not only in internal discipline, but what is the capability and availability of attorneys to the members of your department who are being sued for other issues? Concomitant with civil and criminal law suits comes up the issue of how long is an officer charged with an allegation before he is brought to some finality within the administrative structure of your department, if you have an officer who has some criminal potential within an allegation that's made against him. In some of the east coast departments and some of the west coast departments and even some here in the midwest, the history has been that most of us have let that disciplinary charge hang until the prosecutor has made up his mind what he's going to do criminally.

I don't need to tell you that there are two kinds of law--administrative law and criminal law, and one of the things that administrators are generally not doing is making the determination if they're going to bring the charge against their officer administratively, or if they're going to go criminally. In most instances the decision was left to the prosecutor, and I submit that this is the wrong approach, with the exception of some conspiracy type cases, perhaps some vice cases, in which moving against the officer administratively would jeopardize a bigger investigation. But this issue is one of the problems that officers see, where there are long periods of suspension. When I was in St. Louis, we have some officers who were suspended as long as three and a half to four years before there was final culmination. Obviously we all know that now you can't suspend an officer without a hearing, without pay, anymore, although many agencies continue to do it in violation of the federal law. There's no problem with suspension of officers with pay. This issue is one of the issues that has come up very very often and that administrators aren't making the decision which way to go--administratively or criminally, and then living with it. As a matter of fact, think it's bad for the community we live in if we don't bring the disciplinary charge forthwith against the officer as soon as the investigation is completed. And in most instances, the hell with the criminal prosecution. When you get to that point where you must give a warning to the officer, and only at that time do you have to make the decisions of which way you're going to go.

And the officer should be informed at that time, which way you're going to go. If you immunize him by having him make a statement or take a polygraph and you don't give him the warnings, you've immunized probably against criminal prosecution, but you have not immunized him in any way for an administrative proceeding. What you have done is made the decision internally and the people in the department know the position that the chief of police is taking.

Another issue that is becoming very clear in disciplinary cases across the country that's having to do with organized labor and why people organize, and that is the dual standards of administration of the disciplinary procedures. If an officer is charged for an act of commission of some alleged act, what about his supervisors and command officers. Have they, in fact, by omission or an act of commission, made some charge. An act of omission can be just as important as an act of commission. And the officers are looking at it and they say, will you take a look at the disciplinary charges within this department. How many sergeants, lieutenants, captains, and majors do you see that have had any charges brought against them? It's interesting. Go home and take a look at your last five years of disciplinary charges and see how many should have been on the part of the supervisor. Maybe in your agencies they do review them. But this is one of the things that causes a great amount of unrest at the level of execution that helps in organizing departments.

Let me close with a couple of issues so you can ask questions if you have any, and summarize what I'm trying to say in the area of collective bargaining. I don't think it's necessary or that we're at any point near at this time, although there are elements active in trying to develop a national union. I don't see it developing for some time. They have problems of getting together themselves. I do see labor activity moving in a very rapid rate in the country, because of several issues, and economics is only one of them. One is the continuous adherence to the paramilitary structure of our organizations that don't respond immediately to the needs of the people within the departments. I guess you can use the term for want of a better description, a lack of participatory management concepts within our agencies, but really what we're talking about is the lack of communication, and the communications issues will catch up to the unions ultimately. State police agency communications problems are more serious than municipal agencies because of the way you're spread out and the difficulty of just geographic placement of people. But the whole area of communications, and perhaps around the discipline problem, is one of the biggest areas. If discipline as a management function was handled or was reviewed very carefully, I think that the probability of union activities, strong union organization, would be lessened considerably. I think one of the things that anybody in a management position should certainly be doing now is developing contingency plans for all types of activities. And one of the things that we should be developing contingency procedures and plans for is the labor-management area, just as well as any other form of administration problem. And I would certainly suggest to you that in your agencies that you be working at this very carefully.

Glen Murphy: When you brought up Minnesota--they made some other laws this year that are interesting, and there are two areas I'd like to mention. One is in the political activity. The political activity area of both labor and management has become an interesting issue, and Minnesota currently has some cases that hold a person who is a police officer may run for political office. And if you have within your jurisdiction, or if you have in the past, allowed anyone to take a leave of absence for a purpose, then running for political office is another area in which a leave of absence can and should be granted. That's a Minnesota Supreme Court case. In addition to that, this case is very interesting in that it lays out some levels, and I'll stand corrected on this if I'm wrong. If, for example, a police officer of a municipality like St. Paul is running for the city council, he must take a leave of absence for the term of the elected office that he is in. If you are running for a position within the state legislature, and you're with the St. Paul Police Department, you need only take a leave of absence for the period of time that the legislature is in session. They use the proximity rule. The more immediate the proximity to the elected office of the person who is running for office, the more necessity that he leave the police position while he runs for that office. And if you have a policy, or if you have ever granted a leave of absence, you must do it. They have not changed a great deal of what a police officer can do in partisan politics supporting candidates, however.

I might add that we are now awaiting the Attorney General's opinion on whether or not the officer must resign or can be given a leave of absence to run for sheriff.

I would have great difficulty reading that in. As a matter of fact, there are some California cases on that they cannot run for sheriff and then return to work. Let me point out another issue that we saw a great deal of difficulty with, and this was management--the police officials not having a understanding with the mayor or governor of what were the ground rules for extracurricular activities, outside the negotiation, what I like to refer to as an end run. And what happens in those jurisdictions if you don't have that kind of understanding, and a firm understanding, then the labor representatives, and I don't blame them, I'd do the same thing if I were in their position, what they can't get at the collective bargaining table, they run right around and get it from the city council. If this is allowed to happen by management, just give up the shop. New London is an example of everything that went wrong, and other jurisdictions that we have been in, that if that's allowed to occur, collective bargaining isn't a process anymore. You're not collective bargaining any more, you're playing a political game that nobody can win.

There's another area when you're talking about union activity that all of you should consider, and that's the federal district cases and U.S. Supreme Court cases on free speech. There's been a lot of law made in the last three years on the whole area of free speech. There are three major cases, and all of them have to do with activities on the part of the police official, where an officer within the department is being critical of the police administrator. All three were labor union cases. What the courts have held is that regulations can't be so overbroad as to restrict all forms of speech. Speech is permissible if it does not impair the operations and/or the community relations of the department. These are the two things that we have just to prove in disciplinary cases. If there's no impairment of the operation or community relations in the department, then it's not an illegal act. The courts are not going to sustain the disciplinary procedure, and generally, we've done a bad job in this area. But free speech issue is a very good example. In a Baltimore, Maryland, case, the president of the union was on television, and he was asked is the commissioner incompetent. He said yes. The commissioner fired him, and he was put back to work. The reason the court put him back to work was because of the distance between the commissioner and where the statement was made, and a lack of showing in the case, poor preparation in the case, that it had any impact on the department or the community within which it served. And I think that's very important to remember in any union activities that you get involved in. Don't make things worse for yourself. Free speech is an area that you can readily get into, and if you have ever had cases in this, and you'd like advice from us, we'd be glad to give it to you.

We were talking about strikes a while ago. There are three forms of job action that you should all be considering in your departments. And the strike is one, and in my opinion, perhaps the least important of the three. The other two forms of job action that you should consider are the slowdown by officers, and the super cop approach, where there is a commitment on the part of the troops that every infraction that they see, regardless of the severity of it, with no use of discretion, that they enforce that type of activity. Those are the types of things you should consider if you're doing any contingency planning, because they're much more effective job actions than is the strike. The strike, in my opinion, has not been a really successful tool, except for recognition issues. The strike itself, the stoppage of work has been relatively unsuccessful, and most people and most union officials don't like to use it. As a matter of fact, it's only legal in four states. The other two are more difficult to handle than is a strike.

John Flood: In many cases when the union, which is your patrolmen, and in some cases, even your rank, is taking a job action, you're going to find yourself in sympathy with them. You're going to agree with them. Most job actions are normally taken over economics, after you've passed the recognition issue. Money is not your authority to give.

Gentlemen, two years ago, the members of the State and Provincial Division passed a resolution asking the staff to develop a proposal and seek funding for a police casualty analysis program. It resulted primarily over a great concern of a lot of assaults that were occurring about two years ago. And as directed by that resolution, the staff did submit a proposal, and it was funded, and we have an on-going program with the University of Oklahoma, the Police Casualty Analysis Program.

Frank Zunno: I appreciate the opportunity to give you a little insight into what the Research Division is doing with the assault project. It goes back to the fulfillment of a long-term effort on the part of IACP to get some type of research conducted to find out just how policemen were being killed, sort of as an interim step to find out how these kinds of injuries could be prevented. The assault study is merely a prelude to something else, a casualty, risk reduction program. Our objective is a rather practical one. We've conducted some research on some selected events. We've made some determinations about how policemen are injured, or assaulted, or killed, and the final product of our research will be two risk reduction manuals. One deals with matters relating to ambush attacks, and the other deals with matters relating to robbery situations. The reason these two areas were the subject of our research was simply because at the time, in 1972, these two categories represented the areas where the highest casualties were being reported. The situation has changed in the last two years. From ambush attacks and robbery events, we now see a greater risk occurring in handling domestic situations and in making traffic stops. I'm sure people like yourselves who represent state police functions would be concerned with that, but that's another story, and another funding problem, and I don't have any answers for you on that. Let me tell you a little bit about what we found out in looking at ambush attacks.

In 1973 we reported the highest number of police casualties. This has been rising steadily year after year. This year started out a little less, but it's no indication that it will end up less. As we pursued this project, we found out some things that warranted some immediate attention. We developed an interim message in the form of alert bulletins. We published six of these alert bulletins purely as an interim device to alert people about some single situations that have far-reaching consequences. One had to do simply with the use of the hand-held radio. We found that the vulnerability when the officer uses the hand-held radio is very great, simply because his hand should not have been occupied in that fashion. In a second situation, we noted that a plainclothes officer using and carrying a radio in his hand was immediately identified as a police officer and killed. These things created some thought among the staff that there's a vulnerability here, a high hazard that ought to be taken into consideration. Policemen all over the country carry radios in their hands, when they really ought to be hung on their belts or

strapped around their chests, so that their hands are free to defend themselves. Carrying a radio in your hand when you're dealing with a difficult person--a drunk, a person who wants to assault you--inhibits the officer's actions, and if he lets go of the radio, he loses communication.

We also found that there was an appalling lack of proficiency and knowledge about the shotgun. Officers were carrying shotguns in police cars as a regular item of equipment and did not even know how to function the shotgun. Frequently in the excitement of a situation requiring the shotgun, they were ejecting loaded rounds, they were fumbling trying to release the slide action, doing all sorts of things, chiefly because they had never had any fundamental training in the use of the shotgun. In the third situation, we found that the hazard is great in terms of off-duty employment. Many agencies regulate off-duty employment, but this becomes merely an administrative activity. One seeks permission to work off duty in some security-type activity, or some para-police activity, and the administrator gives his approval, and off the officer goes, generally with police equipment, generally without supervision, generally with no coordination between on-duty officers, and frequently in a very hazardous situation that he may not even be aware of. Appalling as it is, he begins to take orders or direction from his new employer, now, who knows little or anything about police tactics. For example, a merchant experiencing a rash of robberies might say, I need a policeman here in the store. He'll buy an off-duty policeman who will come and sit in the store, not really knowing what he's supposed to do. He doesn't know whether he's supposed to apprehend a robber, he doesn't know whether his presence is to deter a potential robbery. If a robbery occurs, he doesn't really know what to do. He's probably ill-equipped to handle a robbery. In effect, he's a sitting pigeon, isolated, and that's a high-risk situation that ought to be looked at. There are a lot of situations in the ambush area that identify with entrapment techniques and we've spelled out a number of these, how officers are lured into situations simply because someone wants to kill them. We've identified some areas here that warrant caution.

Another subject area of one of our alert bulletins has to do with remaining in the fire zone. An officer fired upon in an ambush situation would not think of running away. It runs against the grain of our manliness, and we tend to stand and fight. It's a natural reaction of a police officer to want to know where the fire is coming from and who has the audacity to try to shoot a police officer. He really should be running like hell away from that situation, taking cover, and doing something to protect himself. Yet, that transmits to an act of cowardice, a lack of courage, and it runs against the grain. And yet we have to somehow convey to our people that this is the proper thing to do--to run like hell, take cover, get out of the fire zone. If you're in a car, the car offers an excellent opportunity to move away from the fire zone. It also offers good protection. Yet many officers will leave the car and go out in the middle of the street and look around like a tourist trying to determine who is shooting at them.

Finally, one of the alert bulletins deals with an area that, for want of a better term, we call complacency. Complacency is the condition of being very comfortable and very secure in one's self. This is the sort of condition that creeps into police work, as officers get more experienced, they get on in years, and they begin to see a repetition of things year after year. A lot of that edge rubs off, and they get rather comfortable about what they're doing. Right there begins high risk, and they become more vulnerable to all sorts of things. We've tried to cite six areas here as a sort of an interim thing, and we've mailed these bulletins out.

In the final product, the risk reduction manual, we thought it best to identify some characteristics of the events that we looked at, to form a basis for the risk reduction doctrine that we're expounding in the manual. We looked at 33 events where there were 56 casualties. Seven were killed, 21 were wounded, and 28 escaped injury. Of all of those events and all of those agencies involved, we were able to look at every one except one event in one agency. That left us with 55 victims in 32 events. Seven killed, 20 wounded, 28 escaped injury. This all has to do with ambush attacks.

I'll read some numbers to you just to give you a kind of feeling about the circumstances surrounding those 32 events. Some of this is very interesting and enlightening. For example, gunfire killed six of the seven. That's not too unusual. That's what you would expect with an ambush attack. A knife was the weapon in the seventh attack. Eighty percent of the attacks occurred in or near the motor vehicle, the police car. And that's not too unusual. Most of our officers are highly mobilized. The marked vehicle is also an easy target, easy to identify the officer responding to a call, any kind of entrapment technique would be a good thing for the ambusher. Ten percent of the attacks occurred in or near the station house or a jail. And that's not too unusual, because that's where police officers congregate. That would be the target area an ambush attacker would seek out. Eight of the 32 events occurred on Sunday. This was the largest single day for recording ambush attacks. One of the 32 events occurred on Tuesday. That was the least likely day to be ambushed. Two occurred on Fridays. That was the next highest or most likely day to be ambushed. Otherwise, it was pretty even throughout the week. All of the 32 attacks occurred in the evening or the early morning hours. That's when an officer is most vulnerable to ambush attack--evening or early morning. Twenty-six of the 32 were in built-up urban areas. Ambush attack is largely a crime that occurs in the city. Only six of the 32 were noted in rural areas. Fourteen of those 32 events are best characterized as a sniping attack. We categorized ambush in three ways: long-range, short-range coordinated, sniping. Forty-three percent were characterized as sniping attacks. There was an element of concealment, an element of someone lying in wait to attack the officer. In six of those 14 attacks, the sniper fired only one round; in two he fired six rounds. The average was 2.3 rounds per event. The average range of the

sniping attack was 93 yards. Of the 55 victims that we had, 25 were the result of sniping attack. The range of that 93 yard average was 13 to 185 yards. Of those who were sniped at, only four saw their assailants. Four out of 25. That's not unusual. You can appreciate that if the guy's lying in a concealed position, it's not likely you're going to see him.

The middle group that we arbitrarily characterized as a direct assault, 14 of the 32, another 43 percent, fall in this group. No concealment involved, close range and the assailant uses the cover of some normal activity. He walks up to the officer on the street, or he appears to be a passer-by, or appears to be waiting to cross the street, or whatever. That's a direct assault, as we have termed it. Twelve of those 14 involved firearms, three rounds per event, on an average. Seven of 12 were initiated by assailants on foot. That's not unusual, because the range is close. In the two cases not involving firearms, an auto was used in one case and a knife was used in the other. The average range for this direct assault-type of ambush was seven yards, as opposed to 93 for the sniping attack. Twenty-one of the 55 victims can be characterized in this area of direct assault. Every one but one of these 21 victims saw their assailants, which is reasonable because of the short range. The only one who didn't was shot in the back.

In the final grouping of ambush attacks, four of these 32 events we've called coordinated attacks. This is a close range affair, two or more assailants, and they employ cross-fire from pre-selected positions. The best way to describe these four events is to give you a little synopsis of each one. In one of these coordinated attacks, a two-man unit was attacked by assailants armed with 9 mm automatic weapons. Sixteen rounds hit the vehicle and wounded each officer. In another coordinated attack, we see another two-man unit attacked by assailants armed with automatic weapons, and at least one shotgun involved. The vehicle was hit 41 times and both officers were injured. These are pretty vicious attacks--coordinated, with two or more assailants involved.

In the third situation, we see another two-man unit, but in this case, both officers were off duty. They were lured into an alley and fired upon by two assailants, each of whom was armed with a shotgun. Both officers were wounded. In the final case, another two-man unit was struck by three bullets, lost control, crashed into a tree, and the assailants were armed with a rifle and a handgun and continued to fire at the car. No one was injured in this case. The average range for this type of coordinated ambush attack was eight and a half yards, similar to the direct assault, but here we have two or more assailants, and we have a really vicious attack, well coordinated. All of the victims of this kind of ambush attack saw their assailants.

In looking at what officers did in terms of counter-attacking or in terms of defending themselves, we saw in 11 of the 32 events that the officers were able to use their weapons. That's not much, but remember, ambush attack is a surprise affair, and it takes the officer off guard. Thirty-seven shots were fired by 13 officers, so when officers use their weapons, they pour a lot of fire out there. But is it effective? It's not very effective. Seven hits scored by two officers. In 20 percent of the cases, you have hits scored, and only 15 percent of the officers are able to record effective hits. It's a rather weak showing. One of the two officers who scored hits was wounded prior to his using the weapon. In cases where the officers were killed, the seven who were killed were not able to defend themselves. They were killed instantly. Of the 20 who were injured, five of those returned fire, and eight of those who were not injured were able to return fire. In terms of taking evasive action or seeking cover, officers just won't do this, as I related to you earlier. It seems to contradict the attitude and mentality that we all share of wanting to stand and fight rather than take cover and run. This becomes now a teaching thing that we have to respond to, and somehow convey to the officers that this is the best course of action when he is under attack.

Half of the 55 victims were from the mid and south Atlantic regions. That was the heaviest concentration of victims. Eighty-seven percent were municipal officers, 9 percent were county, and 4 percent were in the state. As I mentioned, our category of ambush attacks does not include traffic stops, and this is where the state officer would be most vulnerable. Forty-three of the 55 casualties were patrolmen. This is not unusual. Eighty-nine percent were on duty at the time of the attack. Eighty-three percent were in uniform at the time of the attack. The average age runs about 30 years old. Average term of service was three and a half years.

In the robbery category, we're seeing a very interesting picture emerge. It's the young officer who gets killed, and the old officer who escapes injury in cases of robbery situations. I don't know what this means yet. We'll have to look at that some more. In the racial characteristics, almost all were white. Fifty-one of the 55 victims were white. In terms of training the victim officers, eight of the 55 never had any training whatsoever. Ten had over six months of training, and the rest fall in between--anywhere from nothing to 23 weeks. Thirteen of the agencies involved never provide any kind of in-service training. The majority of the victims had never received any training in the year immediately preceding the event. Seven of the 55 had never received any basic training in the use of their service weapons. And only two of those 55 had ever received any kind of training in defense in ambush attacks. Weapons employed by assailants--22 caliber guns were most common.

There's absolutely no evidence that there's any criminal organization or conspiracy to systematically ambush officers. Here are some of the things that we've suggested ought to be done by police administrators to reduce risks.

Management has to recognize this problem and appreciate the need for transmitting some kind of doctrine about defense measures. Management has to establish some kind of policy for risk reduction. We found that the method of simply having a good community relations program in an agency will do a lot toward reducing the risk of ambush attack. An agency, in essence, that has a good rapport with the community will not likely be able to harbor people who want to do harm to policemen. The community will eliminate those people of their own volition. As far as field operations and tactics go, we have to somehow convince officers to be more alert about their safety, about the possibility of impending attack. We have to start turning officers around in their thinking about where to park and how vulnerable a lighted area now becomes. For years we've told officers to make stops in lighted areas, pull violators over under a street lamp, pull into a lighted parking area to complete a report, to increase their visibility, to increase their deterrence as a marked unit, and also because it was a place everyone could see the officer. That kind of doctrine is contradicted if you're trying to reduce risks from ambush attacks, because that's precisely where the ambusher finds his target. He acquires targets in lighted areas where he can see. So those things are going to have to be thought of in terms of their relative value, and the odds of becoming a casualty vis a vis the deterrent value of being seen is going to have to be waived by the administrator.

Stopping at regular spots is going to have to be examined again. The vulnerability of an officer who stops for coffee at the same spot day in and day out--he's a sitting pigeon for the ambusher. The ambusher can target that officer very easily. We looked at the situation of one-man versus two-man units, and this is an age-old controversy. There are no real solutions to this problem because there are many factors involved. Of 49 victims of ambush attack, 10, or 20 percent, were alone. Thirty-nine, or 80 percent, were in the company of another officer. In this case, if you accept this number, the risk is four times greater when you have more than one officer involved. All that boils down to is simply if an ambusher is looking for a target, he sorely loves to find two instead of one officer to hit. The doctrine of backup cars as a strategy was offered in an effort to combat the threat of ambush attack. We found many agencies going with unmarked cars following marked cruisers around on regular patrol. This situation is very difficult to evaluate. I don't have any answers for this. In three of those 32 events, a backup car was present at the time of the ambush attack. What we don't know is how many attacks were discouraged by the use of such a tactic.

We have no way of measuring that in terms of hard data. Obviously, there's some value in communications and counter-action to have a backup car, so the fact that in three of the 32 events, the attack occurred even when the backup was there, I would discount that.

Intelligence. There's a great need to expand the scope of intelligence operations to include information about the impending threat of attack. There are a lot of signals in a community that intelligence operations could discover, and administrators could perhaps design some kind of risk reduction program that would incorporate the intelligence function as an element of that risk reduction program.

We've looked at the situations regarding stake-out and off duty. I mentioned that we put out the alert bulletin about the risks in terms of off-duty employment. Let me talk a little about the stake-out situations. This is a highly vulnerable situation for an officer. No officer should ever be permitted to engage in a stake-out when he is alone. You need a lot of control, supervision, and communication. You need somebody examining that whole situation before you send anybody out on a stake-out. In our view, this has been an area of activity that has been totally ignored. People have engaged in stake-outs in some situations that just increased the risk 100 percent. That's ridiculous. It's something to look at and make some good, hard judgments about--the vulnerability inherent in stake-out situations.

What do you do under ambush attack? You have to tell an officer about these things. You have to tell him what he should do. It's very difficult when you consider all the factors involved, and all the duty situations that an officer is likely to encounter. We mentioned that he ought to take cover and run. If he doesn't believe that, then perhaps you can throw something at him by saying, you ought to do something. There is a need to do more than just stand still and freeze, and that's the simple point of our message--to do something. Evasive action is important. Taking some kind of measure to defend yourself. And last, and most important, to communicate the situation to your headquarters, so that you can get backup assistance. All of these things are largely not done today, because of the shock, or the lack of training, or the lack of understanding on the part of an officer about what he should do. There is a great need for training. Agencies have to provide more training in these sorts of things. The tactics and procedures to be undertaken, and the equipment that's likely to be used. If we're ever going to reduce the risk for police officers, then it's only going to be through the avenues of training, tactics, and equipment.

A lot of administrators confuse defense against ambush attacks with swatt training--the special weapons and tactics team approach. Let me mention that swatt begins after the attack. It is not the answer to preventing an ambush attack. It begins after the sniper or gunman has been located. It

is a counter-action concept and not essentially a preventive concept. The sidearm has little use in preventing an attack. There is no way you can prevent an attack through the use of an officer's sidearm. There is some merit in armor for vehicles, selected locations in the vehicle--door panels, head liners, things of that nature. There's some merit in body armor for officers--lightweight, unobtrusive armor that can be worn throughout a duty tour without any discomfort. These are the things that perhaps need a little more study, but essentially these are the doctrines that we've embodied in this risk reduction manual.

If you'd like, I can give you a brief rundown about some typical problems that have surfaced in our dealings with police agencies and that suggest a recurring concern. For example, there's a recurring concern about whether the revolver is better than the automatic weapon as a service weapon. This controversy has been going on for 75 years that I know of. And there's really no way of measuring this. A lot of it is the result of subjective judgment, and a lot of it can be compared in many cases with the choice of an automobile--whether an Oldsmobile is better than a Buick, or whether a Chevy is better than a Ford. Don't look for any hard, concrete, reassuring research that would point in one direction or another that one weapon would be far superior than another. Each has its merits and each has some drawbacks, but, by and large, the revolver is still a very effective service weapon ideally suited to police use.

There's a lot of concern about whether the .38 special as a cartridge is effective enough or should we not consider going to a stronger cartridge, like a .357 magnum. Our best judgment in this situation is that the .357 magnum or any heavy caliber weapon is not an ideal weapon for police use, except in some very special or limited situations. The recoil, the difficulty to train people to shoot heavy caliber weapons is well known. Accuracy diminishes very rapidly, and the transition from using, say, a practice round of a mid-range type loading, and then arming officers in their service weapons with a heavy caliber load is very foolish, because the first shot the officer fires, he's going to be unnerved, disconcerted. He's not going to get the second round off very accurately. It's for these reasons that we think the .38 special is the most ideal cartridge to use in police work. Now there's a correlary, and that is that the .38 special cartridge in the round-nosed lead bullet is probably very ineffective. And what you need is not a new cartridge or a heavy caliber, but a new bullet configuration, an improved configuration.

You're going to hear a lot about armor for police officers and I'm going to toss a name out to you. The name is Kevlar, and that's the name of the fabric that will ultimately emerge as the best kind of soft armor, the strongest kind that's going to be available. Kevlar is the name of a DuPont nylon yarn that when woven can produce.....this is just a point of

**CONTINUED**

**3 OF 4**

information for you. Kevlar is going to be a much-talked about word. It's the yarn used to make the nylon tires that we used before the polyesters and belts became popular. The yarn in the old nylon tires has a new utility, and that's to manufacture bullet-proof vests.

Finally, we get a lot of concern about where is the best place to mount the shotgun in a car. It's our best judgment that mounting it on the floor where it's available to either driver or passenger is probably the best location. Standing it vertically in the passenger compartment up against the dashboard is hazardous. It's also objectionable in many cases because it presents to the outside viewer a very combat, military-like image which may be contra-indicated for some departmental programs. In the event of a collision, obviously it's a hazard, in terms of what it might do to an officer or passenger coming into contact with it. On the floor, parallel or horizontal, available to either driver or passenger seems to be the most desirable location. Of course, with the advent now of folding stocks, the whole matter of mounting the shotgun becomes a lot simpler than it was previously.

We've got some thoughts about a few things that we think ought to be discussed and ought to be sought. I'd like to try them on you for size and see what you think. Aside from a comprehensive risk reduction program which logically follows this police casualty research, we're thinking that there's a great need to promote more individual research in police agencies, and then to somehow collectively make that research available to all agencies, so that we don't have this condition of duplication occurring all the time. What we're suggesting is that perhaps people who do research in various agencies form some sort of a group and create some individual channels of communication in that fashion, and then alongside of this, use the IACP as some sort of message center by giving staff an opportunity to know what's going on currently in the way of research, so that as inquiries come in, staff could then function as a message center, and direct an inquiry to maybe a neighboring agency that's doing a similar type of program. Thus, we reduce duplication, we promote greater cooperation among agencies, and perhaps build up in some fashion a library or a store of research projects at the IACP that people could examine or borrow or get some kind of knowledge about their existence. These are some things that we think ought to be done.

BUSINESS MEETING  
1974

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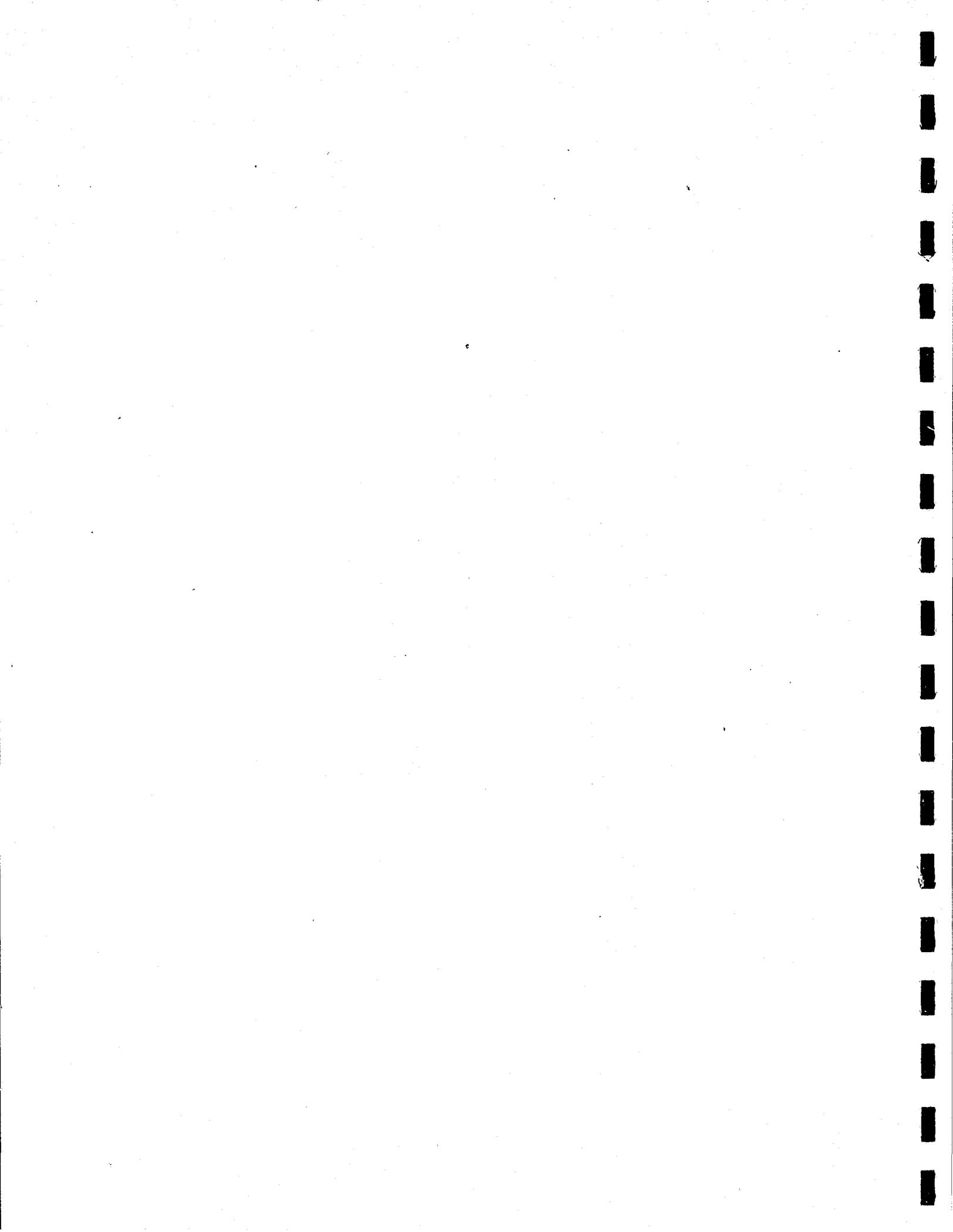


DIVISION OF STATE AND PROVINCIAL POLICE  
INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

REGIONAL CONFERENCE REPORT  
1974

COLONEL J. R. PLANTS, GENERAL CHAIRMAN

NORMAN DARWICK, DIRECTOR



DIVISION OF STATE AND PROVINCIAL POLICE

REGIONAL CONFERENCES, 1974

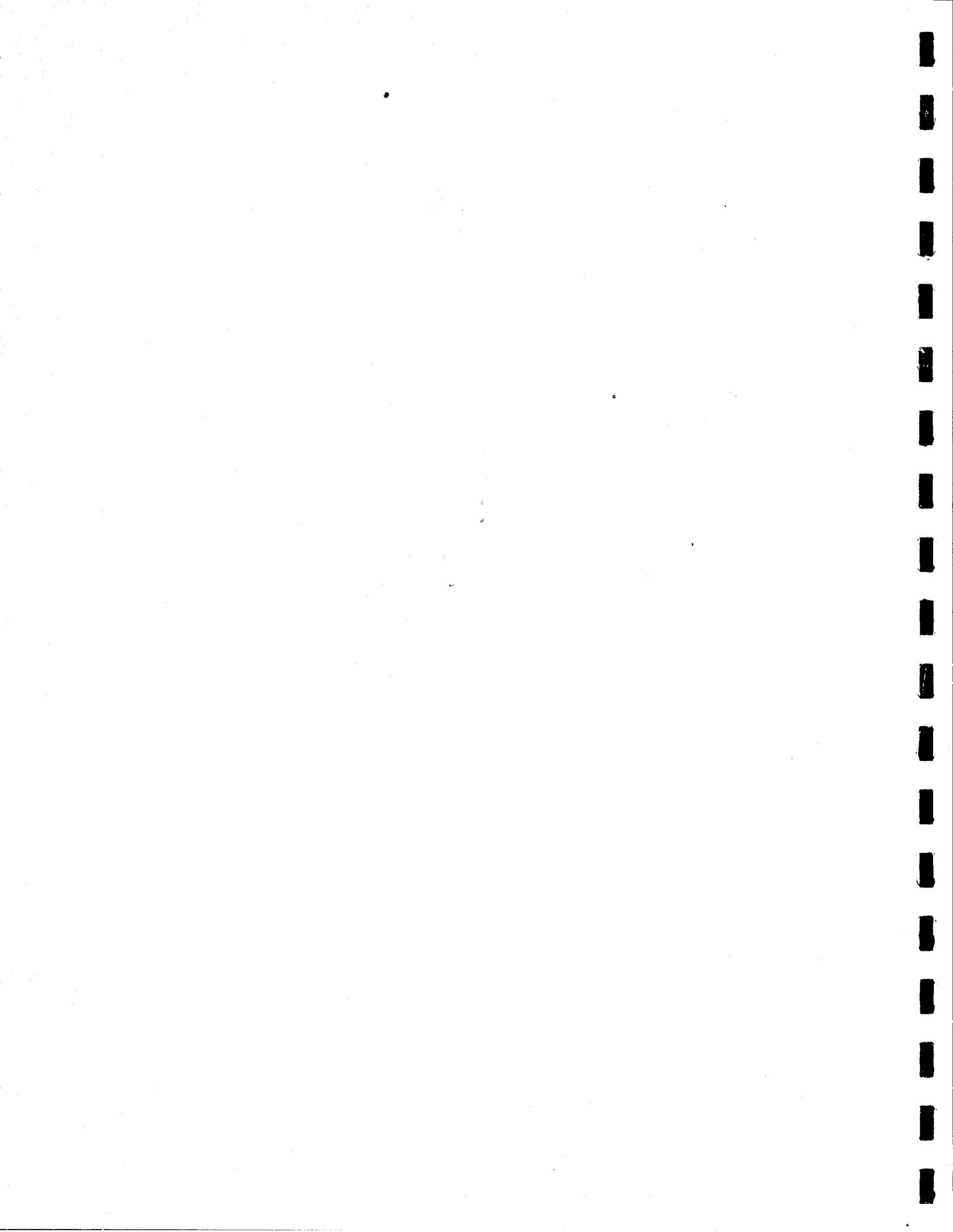
DIRECTOR'S REPORT

1. Financial Report (Copy attached).
2. Review of current proposals submitted to the Law Enforcement Assistance Administration on behalf of the Division of State and Provincial Police.
  - A. Comparative Data Report
    - 1) Printed every two years. 1974 issue should be received by you in December.
  - B. Regional Conference Proposal
    - 1) Support travel for two executives from each state.
  - C. Police Physical Standards Project - Research Concept Paper
    - 1) Letter from LEAA
  - D. Minority Recruitment Proposal - Rejected last year and submitted again this year at the direction of the Executive Committee - Rejected again.
3. Central Index  
Current status and conflict with State Police Planning Officers Association.
4. Clearinghouse on Information Concerning Police Women Established at the IACP - Police Foundation grant and administered by the Public Affairs Division of the IACP.

5. Management Career Development Program
  
6. Division Programs - In consideration of the objectives of the Division of State and Provincial Police, the following is a review of Division activities:
  - a. Conducted 4 regional planning sessions to develop agendas for the four executive conferences for state police administrators.
  
  - b. Coordinated activities and provided liaison for meetings of the Executive Committee of the Division.
  
  - c. Continue to publish the Division newsletter entitled, Memoranda.
  
  - d. Coordinated activities and provided liaison to IACP's Auto Theft Committee.
  
  - e. On a continuing basis, providing the necessary developmental work and coordination for the two (2) annual State and Provincial meetings and the Executive Committee meeting to be held in conjunction with the Annual Conference in Washington, D. C.
  
  - f. Developed and submitted proposal to the National Highway Traffic Safety Administration to support development of a Model Police Traffic Services Procedural Manual.
  
  - g. Developed and submitted proposals to LEAA for funding of the State and Provincial Regional Conferences and the 1974 Comparative Data Report.
  
  - h. Maintain a continuing liaison with key officials of the National Highway Traffic Safety Administration and the Law Enforcement Assistance Administration.

- i. Provided liaison to the Motor Vehicle Manufacturers Association in areas concerning vehicle security and the Vehicle Theft Technique Reporting System.
  
- j. Participated in a proposed rulemaking hearing sponsored by NHTSA regarding the exemption of police vehicles from the requirements of the inter-lock system standard and the impact absorbing bumper system standards.

The General Chairman testified before the Ervin sub-committee concerning proposed legislation relative to the privacy and security of information systems.



GENERAL CHAIRMAN'S REPORT  
DIVISION OF STATE AND PROVINCIAL POLICE  
REGIONAL CONFERENCES  
1974

- I. Opening Statement
  
- II. Recognition of Regional Chairman
  - A. Southern Region                      Commissioner Claude Armour  
   Tennessee Department of Public Safety
  
  - B. North Atlantic Region              Colonel Robert Bonar  
   West Virginia State Police
  
  - C. Mountain Pacific Region          Colonel James L. Lambert  
   Nevada Highway Patrol
  
  - D. And our current host here in the North Central Region,  
   Superintendent Robert DeBard of the Indiana State Police.

These men are serving as hosts for each of our regional conferences this year and are taking their valuable time from their busy schedules to assist the Division in its continuing programs.

III. Recognition of State and Provincial General Officers and Members of the Executive Committee.

As most of you know, Colonel John R. Plants retired from active police service on July 5, 1974.

A. General Officers:

General Chairman, Colonel Wayne Keith, Colorado State Patrol

First Vice-Chairman, Temporarily vacant

Second Vice-Chairman, Colonel Walter E. Stone, Rhode Island State Police

Secretary-Treasurer, Major Eugene E. Olaff, New Jersey State Police

Advisor, Bernard R. Caldwell, San Diego, California

Sergeant-at-Arms, Major Adolph M. Pastore, Hollywood, Florida

B. Executive Committee:

Immediate Past General Chairman, Colonel Wilson E. Speir,  
Texas Department of Public Safety

Colonel David B. Kelly, New Jersey State Police (Retired, July 1, 1974)

Colonel James J. Hegarty, Arizona Department of Public Safety

Colonel Frank Thompson, South Carolina Highway Patrol

Chief Will Bachofner, Washington State Patrol

Commissioner Walter Pudinski, California Highway Patrol

Commissioner Harold H. Graham, Ontario Provincial Police and  
the FBI Representative to the Executive Committee, William L. Reed,  
Federal Bureau of Investigation.

I felt it important to mention each of these men individually because of the important developments that have occurred in the past year which each of these men have contributed greatly.

Since our last regional meeting in 1973, there have been some personnel changes. I would like to recognize each of the new administrators this time. Florida Department of Law Enforcement - William A. Troelstrup; Georgia Department of Public Safety - Colonel J. Herman Cofer; North Carolina - Commissioner Boyd Miller and Colonel E. W. Jones; Oklahoma - Commissioner Roger Webb and Lieutenant Colonel Jerry Matheson.

#### IV. Executive Committee Activities

As many of you know, the Executive Committee of the Division of State and Provincial Police has in prior years served in an advisory capacity to the Law Enforcement Assistance Administration. This has provided us with an opportunity to meet with LEAA officials and to discuss those issues which are important to the state law enforcement agencies as well as the Law Enforcement Assistance Administration.

As you know in 1973 there was a change of administrators at LEAA. The previous administrator, Jerris Leonard, resigned his position and Mr. Donald Santarelli was appointed as Administrator of LEAA during the early part of 1973. Mr. Santarelli met with the members of the Division of State and Provincial Police during our Annual Conference in San Antonio, Texas, in September of 1973. At that time he expressed an interest in maintaining the advisory capacity of the State and Provincial Division Executive Committee. As a result of that expression, a letter was forwarded to Mr. Santarelli through Mr. Clarence Coster's office requesting that a series of meetings with LEAA officials and the State and Provincial Committee meeting be established for 1974. This letter was transmitted in December of 1973 and unfortunately there has not been any response to date.

On March 6, 1974, our Executive Committee met in St. Louis, Missouri. We discussed the issue of our relationship with LEAA officials and the consensus of the Executive Committee was that we should continue to pursue future meetings with the Administrator of LEAA.

Several other important issues were discussed during our meeting, but rather than go into detail as to each of these issues let me just touch on the highlights.

We reviewed the Police Physical Standards Concept Paper which was submitted to LEAA by the IACP Staff. This was a project that Mr. Santarelli encouraged us to submit to LEAA during our meeting in San Antonio last year. After review by the Executive Committee the members elected to approve the concept, however, a motion was made that when a final proposal is submitted that the S & P Executive Committee be allowed to review and endorse that proposal prior to submission to LEAA. In the interim the Executive Committee passed a resolution supporting the IACP in their efforts to obtain funding from LEAA for the Police Physical Standards Project and further supporting actual field testing in selected police agencies of our Nation, as necessary to validate the findings of the Police Physical Standards Project and further requested that the various mandates by individual directing authorities to indiscriminately hire people for police work without hiring standards being first validated be stayed until appropriate studies have been completed and cogent hiring standards are produced from the results of such studies and field tests.

The next issue for discussion was the National Law Enforcement Telecommunications System. The members reviewed new rules being promulgated by the Federal government and current hearings relating to criminal justice information systems which include proposals that the Federal government assumes control of NLETS. The members of the Executive Committee,

through official action and unanimous vote, strongly opposed current proposals which suggests that the Federal Bureau of Investigation or any other Federal agency take control of the National LETS System. In addition the members supported the concept that the Federal Bureau of Investigation maintain control and operation of the computerized criminal history system including message switching capability as it relates to that system. These issues of opposition and support were transmitted to the Attorney General, to the Administrator of LEAA, House and Senate Judiciary Committees, and to the President and Vice President of the United States.

Our discussions then centered around some existing policies of IACP, specifically the present system of voting and election of officers. After considerable discussion, the members supported any concept which will support a more equitable representation of IACP membership in the general activities of the Association. As a result a motion was made and passed unanimously requesting Mr. Quinn Tamm to direct IACP staff to develop a system to provide broader representation of IACP in the voting process and specifically requested Colonel John Plants to direct the feelings of the State and Provincial Executive Committee to Mr. Quinn Tamm.

In addition to these issues the Committee was informed by State and Provincial Staff as to the status of the Comparative Data Report for 1974, the Regional Conferences for 1974 and the on-going Management Career Development Program.

I will not go into further detail in discussing these issues for I have asked our Division Director to fill you in on the status of each of these programs.

In concluding the meeting of the Executive Committee, the members discussed the Annual Meeting of the Division of State and Provincial Police to be held concurrently with IACP's Annual Conference in Washington, D. C., in September of 1974. We currently expect to conduct a meeting of the S&P Executive Committee on Saturday morning, September 21 which is the first day of the conference week. The Annual Meeting of the Division of State and Provincial Police will be conducted in the afternoon of that Saturday, September 21, 1974, and during the morning of Tuesday, September 24, 1974.

APPENDIX D

TRANSCRIPTION OF  
SOUTHERN REGIONAL CONFERENCE PROCEEDINGS

TENNESSEE  
DEPARTMENT OF PUBLIC SAFETY

Hosting  
SOUTHERN REGIONAL CONFERENCE

Division of  
STATE AND PROVINCIAL POLICE  
INTERNATIONAL ASSOCIATION  
OF  
CHIEFS OF POLICE

July 22 - 25, 1974

Chairman  
Commissioner Claude A. Armour  
Tennessee Department of Public Safety

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## WELCOME AND INTRODUCTION

Governor of Tennessee:

Once again, my deep appreciation to you, Claude Armour, for your kind words. Claude is my good friend. Not only are we associated in government with the common purpose of doing what we can to make our state a better state, but we have shared a mutual friendship and trust which has been tremendously comforting during some rather exciting and, on occasion, rather tenuous times.

I do appreciate the privilege of being here to welcome you. I can't begin to express to you the personal admiration that I feel for the involvement which you have committed yourselves to in your own professional lives, and the involvement which your families have associated themselves with. What you mean to us and the records which you continually make in your dedicated service are beyond any layman's ability to express appreciation. But knowing of your purposes, knowing a little bit of your history and being aware of the present strength of your organization, being aware of the tremendous contribution you have made over the years to law enforcement, criminal identification, and protection of the public gives me every reason to be extremely grateful to be on a welcoming committee and in the presence of such distinguished public servants.

We are proud of our state. We see a great future which is unlimited; a potential that has just begun to be tapped. So, we welcome you, proudly. We know that you make the public your continuing concern. We know that you are those to whom we have entrusted our very lives, our personal safety. I, as a representative of more than 4 million people, wish to thank you for what you do, and to applaud the efforts that you make.

One of my concerns as Governor of our state has been that of creating a climate in which our citizens could feel the freedom and could unleash their own innate abilities and grow and develop and seek that sense of happiness which is so important to all of us. Certainly, the area of law

enforcement, the entire criminal justice system directly and specifically relates to those of us who seek those goals. I'd like to set the tone for what I hope you will ultimately understand to be the attitude of public officials in our state, mention some of the things that have taken place in state government recently, all of which directly or indirectly affect government at other levels as we seek to create this climate of confidence and safety for our citizens. We have stressed in Tennessee over these three and a half years, and I might add, building on a solid foundation that was established by others who came before me, penal reform as one of the absolutely fundamental processes by which we begin to deal on a continuing basis day by day with the problem of law enforcement and public safety. We have stressed the prevention of crime and the strict enforcement of our laws. I believe we have made some progress in this area. We're paving the way for greater progress toward achievement of the very things your organization stands for, and we are working diligently with the kind of talent that is represented by the man on my right. We're concentrating on working with law enforcement officials at all levels of state government, seeking to establish the kinds of relationships in Tennessee which will permit us not only to confront but to overwhelm what has been a very distasteful growth in criminal statistics over recent years. Court reform and modernization has been one thrust of this administration which, unfortunately, has not seen the kinds of results which I would prefer to see. We took a step backward in this past session of our legislature when there was repeal of the Missouri plan which had earlier been adopted, which permits us to take politics out of the selection of members of our highest court in Tennessee. Beyond that, and beyond our failures to do other things in the area of court modernization, let me talk about some of the positive things.

We have in Tennessee for the first time in our history, going back to my reference to prison reform, a full-time professional pardon and parole board, a board which deals on a full time basis with every single person behind prison bars in Tennessee. The members of this board are fully aware that at least 95 percent of the people within our prison system will some day walk our streets, and therefore, they, along with this administration and public officials across the state, are anxious to see them deal with the correctional officials in such a way that when they return to society they will not represent the threat to society which they might otherwise represent. We're concentrating on giving the people of Tennessee better protection by returning to society rehabilitated people. We're proceeding to decentralize our correctional program, to take away from our present

system that very unhappy circumstance in which the first offender is injected right into the heart of a crowded central prison where so many undesirables are associated with. We feel this is a significant step forward, one which has been taken with the cooperation of local governments. We believe that by constructing regional correctional centers around our state, we will be able to separate the first and minor offender who must serve his time from those habitual and hardened elements within our society, which must be kept separated. We've doubled the capacity of our state law enforcement training academy in order to offer more opportunities, to upgrade the skills of the officers who are in service to the people. We've increased our state trooper positions by more than 10 percent. We've initiated a tactical squad of highway patrolmen to provide our state with expert ability on an emergency basis, dealing with life saving, crowd control, and disaster conditions. I'm happy to say that our increased numbers of safety personnel and our expanded program has resulted, this year, along with the reduction of our speed limits, perhaps as a result of some reduction in travel, in a 15 percent reduction in traffic fatalities. We hope to cut this death toll even further because of our intensive drive against the drunk driver.

By the fall of this year, there will be another first for law enforcement in Tennessee. We will have Tennessee's first central crime laboratory operating. We're currently developing the Tennessee information enforcement system, utilizing the latest data processing technology to make available to law enforcement agencies the crime records and other criminal information. Currently, there are 61 police agencies which are linked into our system. We're now implementing a standardized crime reporting program so that criminal activity can be more closely monitored and perhaps be more thoroughly evaluated. We've increased the narcotics section of our Tennessee Bureau of Identification by 28 percent. The organized crime section has developed a substantial intelligence file on the activity of organized crime in our state, and this division is working closely with local agencies to overcome the efforts of the criminal element. We have a work release program which is allowing adult inmates to gain invaluable work experience before they are released. Major salary improvements have been injected at many levels of law enforcement across our state. We have a pilot program to provide training and counseling services for mentally retarded juveniles. I want to give you an idea of what it's like in Tennessee today as we deal with the problems of criminal justice.

In conclusion, I'm convinced that we are in a stronger position today than it has ever been to deal with the very sorts of problems which have brought us together.

Mayor of Metropolitan Nashville:

It's a pleasure for me to come here to extend you the greetings of the people of the metropolitan area of Nashville. The Governor referred to me as the Senior Statesman, or senior citizen, I think, but I'll tell you that when you stay on top of local government for 25 years, you've ridden pretty tough. On seeing the great difficulties that were taking place among our people, we conceived the idea, when I was county judge, that it was ridiculous that we should have all these involvements and layers of local government, and I helped to create the idea of a modern type of local government that is now the envy of the whole world. We have visitors from all over the world come to see us and talk about local government and its problems. One of my responsibilities as the first Mayor of the metropolitan government—I was greatly concerned about the image of our law enforcement agencies and the effectiveness. The people were not adequately trained in the old city of Nashville. The manner of recruiting was very bad in my judgment, and I was concerned about it, and at that time, I was concerned about some chiefs of police that I had known both as a lawyer and as a county judge. I was trying to find the expertise to help reconcile what ought to be done to bring people together, to get the support of the public, and get the work done. I went many places to try to find out what to do. I recall talking to a man named Inspector Wicks in the FBI. He started talking about the International Association of Chiefs of Police, which was a big term to me in those days, and I thought, Lord have mercy, I'd hate to run into an organization of them! I was then corrected in my thinking and then became very well acquainted with them. We will not do anything in this city unless we confer with the IACP. They've been a guide for us in our law enforcement reorganization and efforts here.

I've had the great experience of seeing the change in this community, the skyline—I apologize for our streets. I haven't found out how to put pipe in a rock without blowing it out, and that takes a lot of time and an enormous amount of money. But we are doing many things in our city, and I'll let the city speak for itself. I think the workshops such as you have here are very beneficial to all of us—not just to you, but to bear upon all of us that we are part of a system, and we must take our responsibilities within that system to do the things that are necessary to keep it in balance and make this a better place to live.

We are glad that you chose Nashville. We want to welcome you back when you have time so we can show you the things we have done.

Chief of Police of Metropolitan Nashville, Joe Casey:

It is a privilege for me to be here and to welcome you to our community and hope that your stay here will be an enjoyable one. The IACP has been a lot of help to our department. In September, I'll be in Washington at the national conference of IACP. It's going to be my first one, and I'm sure I'll get a lot out of it. We do want to welcome you here and let you know that if there's anything that the city police can do to help your stay be a better one or a more enjoyable one, feel free to call on us at any time, and we'll try to help you. We've got many things here to see and we're proud of our city. If you want to come and visit our police department, we'll be glad to have you come and look it over. It used to be an old market house, so you might get a lot of history out of it.

Chuck Hawley, NHTSA:

I've been with the agency since before it was formed. My first job with the federal government was when I went to Washington in 1966 to sit in on the hearings in the Congress for what was then the Bureau of Public Roads. The Act contemplated a systematic program—a system in each state to deal with the crash problem. It issued standards and appropriated money to the states and required that a state be implementing a program in compliance with those standards to be approved by the Secretary of Transportation. Each state has to submit a total highway safety program, as a condition for receiving funds. Since this program is made up of many different elements, the administration of the program was very clearly placed under the Governors by the Act itself. Obviously, if he is going to administer a program, he has to have someone on his staff somewhere to perform that function, and that's what gave rise to the Governor's rep in each state. These Governor's reps—some of them were very close to the Governor in terms of a high level in trying to bring together all the agencies. There are some others who are staffed at a very low level. Some of them—their basic function really is a bookkeeping function to account for the expenditure of federal funds, rather than trying to really develop a state program. This varies from state to state, and our primary contact is with the Governor's rep in each state. This does not preclude direct contact with operating agencies in a state. I don't see how we can take that position. The actual expenditure, the plan for the expenditure of the funds, is put together and supervised by the Governor's rep.

A similar situation exists with the demonstration projects. We have what we call contract managers. These are contracts with cities, counties, or in some cases, the states to implement the ASAPs. Each project has a project director. He may report to the Mayor of the city or the Governor's rep or some other department head. Our contract managers would be remiss in their responsibilities in trying to manage the contract if they were limited to dealing, exclusively and all together, with their project director. If we're doing an on-site review of a project, I would not think of doing an on-site review without dealing directly with these agencies who are implementing the program. I don't think that most of our Governor's reps would take the position that no contact can be made between federal people and the operating agencies, except as they prescribe it. I can't imagine that situation existing. No program should be administered in that strict, formal situation.

Question: I hate to keep bringing this up, but I think we have to expound on the question that Norm brought up, and I gave my state as an example. I really believe you have a better system of appeal than LEAA, and I believe that we're completely at the mercy of the Commission and the Governor's rep at present. I do believe that the operational factors should be able to appeal, that if your region cannot intervene, cannot analyze a state's program, and so on, then they become nothing but bookkeepers. They have to have some say-so, some evaluation process they can go through to see if a state's carrying out its part of it.

Chuck Hawley:

I think it's our responsibility in Washington, and in the regions, to be as aware as we possibly can about the different kinds of programs in the states, and to try, through what controls we have and through what persuasion we have, to see that the priority problems are addressed in each state. They differ from state to state. What is a priority in one state might not be in another state. The federal funds that go in, when you compare them to the total cost of operating a program, are pretty small anyway. 402 funds are probably around 3 to 5 percent of the total funds in the state program. There are different influences, as you well know, within each state on how this money is going to be spent. I would hope that all agencies feel that there is a means of communicating their needs and their positions to the administration. The IACP is your organization. It represents the police administrators throughout the country, and if this is a nationwide problem, I think it's the responsibility of IACP to discuss it with the officials of the NHTSA. I wasn't aware that it was this much of a problem.

Question: I am the Governor's rep here. We feel that if you don't agree with what the Governor's rep is doing, go to the Governor. He's in charge of the program.

Chuck Hawley:

We've recommended that each state set up a committee—a Governor's coordinating committee on highway safety, or whatever name you want to call it—and this committee, composed of the department heads who have these responsibilities, would plan, and the Governor's rep would be the staff director. The committee would decide and recommend to the Governor how the money is to be spent. A number of states operate that way, and the head of the state police or highway patrol is a very influential person in that committee. In a lot of states, he's looked upon as the highway safety expert within the state. I've seen these committees work. In North Carolina, there was one set up by statute in the early '60's. A state law set up a highway safety coordinating committee with the Governor as chairman, and the agency is supposed to meet at least quarterly. This is before the Highway Safety Act was passed—the federal act. Those meetings that I sat in on in the early stages, at that time the Commissioner of Motor Vehicles—the highway patrol was a division of the motor vehicle department—the Commissioner of motor vehicles was looked upon by the other members of that committee to call the shots. They relied upon his judgment about anything that had to do with highway safety, and I think that's true in a lot of states. They look to the commissioner or the superintendent of the highway patrol as a person who is knowledgeable about highway safety. I don't know why in any state the police agency wouldn't have a substantial role in developing the highway safety programs.

Question: It seems unlikely to me that the Governor would appoint a Governor's rep in whom he had little or no confidence, so from that point of view, the Governor has to support the decisions made by the Governor's rep. That's what's happening and that route of appeal has not been successful.

I think a lot of Governor's reps would be envious of the power that some people think they have. I've had Governor's reps say, I wish I had some decision roles to make. It looks like I just put down what they're going to do, and I don't have enough influence over the program because it's institutionalized, each group has its own power structure. In the final analysis, some of them think of themselves as being too much in a clerical role. If, for example, you could show that enforcement of the traffic laws had paid off three times as much as driver education on a dollar-spent basis, you get three times your return on enforcement for a dollar that you get in education. If you could prove that beyond a doubt, by scientific evidence, you wouldn't automatically take all the money going into driver education and put it into enforcement, because the situation wouldn't permit it. Governor's reps have a hard time changing the allocation of funds in the

state. If that is a problem, as it appears to be, I think it's certainly within the interest of IACP to discuss it, and to seek an accommodation on it, whatever is required. Enforcement is viewed by the administration as being the basic, essential part of the program. And if we're not getting maximum improvements in that area, we ought to think about how we can.

Blair Ewing, LEAA:

Thank you very much. The first thing I want to do is say that several people have asked me what's going on at LEAA and I start to tell them about how we're developing a comprehensive plan, and they say, no, we are not interested in that. Who's going to be the next administrator? So, to answer that question first, I don't know. And I don't think anybody else knows, and if they know, they're not telling us. But I do know a couple of things that I can tell you about that situation and maybe we can start off that way. It may be awhile. I'm here in place of Mr. Work, the Deputy Administrator of LEAA, and I wanted to be sure to bring to you a message from him which was twofold—one is that he was very sorry he couldn't be here. He has been at a number of these sessions and was sorry to miss this one. Secondly, he wanted me to talk with you briefly and to answer any questions that you might have about the process that we're going through at LEAA at present to develop a set of goals and objectives and program statements which we think will, for the first time at LEAA, provide for the public, and also for LEAA itself, and for all the criminal justice agencies in the country, a coherent statement of LEAA programs. You may or may not think it's coherent. We sort of think it is. Nevertheless, we'd like to hear from you about that, because it's a first time for LEAA, and the chief reason why I'm now at LEAA is because when I used to direct the State Planning Agency for Law Enforcement and Criminal Justice in the District of Columbia, I used to fight constantly with LEAA and tell them they had no business criticizing my plan when they had no plan of their own. Mr. Work dragged that letter out of the files not very long ago and said why don't you come over and help us develop a comprehensive plan for LEAA itself? It isn't something that I've done all by myself, certainly. And we're not finished. We're still seeking the advice of people like yourselves, the comments and the criticisms and suggestions that you may have about this program. I might note that the prime emphasis of this program is on the discretionary and research and data systems money which LEAA has to spend and has to make up its own mind about how to spend. It's not on the block grant money. The block grant money goes to the states and the states pretty much, within some limits, make up their own minds about how they're going to spend that money. So, this

exercise is one designed primarily to focus on the issue of what does LEAA do in the future about its own funds, appropriated to it by the Congress. Why we have goals and objectives in the form that we do is to some extent the doing of the Department of Justice and in turn the doing of the Office of Management and Budget.

I think some of you will remember that not very long ago, we had PPBS—Planning, Programming, Budgeting Systems, and then we had another development called Performance Management, and now we have Management by Objectives. Management by Objectives is, of course, an older kind of approach and all it really involves is an approach which says, look, let's be clear about our goals, let's set forth our objectives in terms that are time-limited, that is, we're going to accomplish this objective within a certain time frame, and let's do it in terms that will permit us to measure, from time to time, just where we're going. That is, to say, let's set some milestones—some dates in the interim at which we will achieve some parts of the objective. And let's lay out some programs that make sense in terms of how we can accomplish what we want to accomplish in the time that we have available to us. So, that's what we have done, as I say, in a first cut kind of way.

The goal is one that is both a substantive goal in the sense that it speaks to what we want to accomplish substantively. It's also a procedural goal in that it suggests how we want to go about that. And the goal says that LEAA's prime goal is to reduce crime and delinquency in partnership with the states. That goal is one which is mandated by the legislature—it's not one which we have chosen altogether. It is also the case that reduction of crime is mandated by the legislature, but that's only one goal among many. We have chosen to emphasize that, because in our judgment and in the judgment of a great many others who have told us what they think of the LEAA program from time to time, that goal is far more important than anything else, and everything else ought to be under it. We recognize that not everybody will agree with that.

We know that the resources we have are quite limited and that we can't do everything. Therefore, the priorities are at the program level. There are 38 programs, 25 of which are priority programs, and we may not even be able to do all of those. We're still not sure of that just yet. Let me say one thing about the five general objectives that we have listed. The first of those has to do in simpler language, with LEAA's responsibility to work with state and local governments to demonstrate, if it can, what kinds of programs are effective in reducing crime, then to package up the results of that and see if we can't transfer that to other locations and test the impact of a successful program in one place in another place.

The second of those is LEAA's research and evaluation effort. Evaluation at LEAA is, at this juncture, a very high priority. It's high priority in part because the Deputy Attorney General has said it's to be a high priority, and that's always a good reason. It's also a high priority because the Congress, the General Accounting Office, every law enforcement agency in the nation, and the general public want to know what's happening with respect to our programs just as they want to know what's happening to every federal grant and appropriated fund. So evaluation is a high priority, and research is henceforth, and this is a departure from the past, to support evaluation and to be directed in a highly focused way in support of a relatively limited number of LEAA's objectives. It is clear to most people, I think, that the research efforts of LEAA to date have been scattered, fragmentary, and directed at a wide variety of interesting ideas, but have not been focused on support of demonstration programs and the testing in a systematic way of ideas that will be of genuine use to law enforcement people.

The third of those objectives has to do with the major emphasis on building support among the citizenry for the criminal justice system and enlisting citizen support in a wide variety of ways as well as doing more things for citizens in the form of better treatment for witnesses, jurors, and victims of crime than has been the case in the past. That is given an enormously high priority across the board within the Justice Department and within LEAA.

The fourth of those objectives is one that is perhaps next to the business of demonstrating effective programs the highest priority—to assist state and local governments to attain the highest standards of management for crime prevention and reduction. This is where, of course, our entire block grant monies fall. But it goes beyond merely making grants of planning and action monies to state agencies. It goes to the whole issue of new federalism. It goes to the issue of what happens to LEAA after the end of fiscal 1976 when its current authorization expires. The top management of LEAA would like to see a situation emerge by the conclusion of fiscal '76 which would permit the abolition of LEAA, permit it because by that time there would have been sufficient support on the part of state and local governments for the kinds of law enforcement and criminal justice improvements that everybody wants, that LEAA would no longer need to exist. And secondly that LEAA's sole continuing functions might be only in the field of research and data systems development. That may or may not come about. The pressures, of course, to renew the program and to increase its appropriations are also very great. At the top level there is a strong commitment to not only making block grants and planning grants

available, but also to making money available for assisting people in the design of evaluation efforts, or assisting people in a wide variety of efforts to increase capacity at the state and local levels.

The last is an objective that has to do with putting LEAA's own house in order. LEAA has been subjected, I think quite justly, to a lot of criticism about the way it manages its own house. One of the things that LEAA has done is that it's begun to take seriously that criticism and begun to try very hard to reform the way in which it goes about reviewing and managing the grants and contracts which are its to give. It's also putting a lot of pressure on states to do that. I think that's going to show some early fruit in the form of a far more efficient program and far better management within the program. But we're eager to receive continuing suggestions for how it can be further improved, because it is a program that should be designed to serve the needs of state and local governments, planning agencies, and all the agencies which require the kind of assistance that LEAA ought to be giving.

This list of programs, then, is one that includes some things which might bear a little discussion and explanation. Under what is called "general objective 1.1" there is an interesting concept—one is that LEAA is going to mount an effort to review and assess what's going on in the way of effective programs around the country, regardless of whether LEAA funds them or not, and then assist in the packaging and testing of those elsewhere. Another part of that, however, is that those kinds of packages are going to be made available nationwide, suggesting not merely that one take a full-blown program from another jurisdiction, but rather that people have an opportunity, like looking at a menu, to pick from among the packages, the elements that appear to them to be most reasonable for their jurisdictions. One of the issues is clearly that all too often people say, well that's fine, it worked in your jurisdiction, but there are elements of that program that we simply couldn't use because they wouldn't work in our jurisdiction. What we want to do is break out the various elements of the program and make it possible for people to adapt programs much more successfully. Another kind of new departure is that LEAA expects to develop a plan within the next several months for a highly visible, national crime reduction program based upon one of two approaches, either the identification of a specific crime or offender target, or a specific set of crimes—or the development of a new mechanism for testing on a large scale a number of related or alternative crime reduction ideas or approaches. The details of that are certainly not available yet, but the idea is called crime-oriented planning, which is to

say, let's see if we can't, by some kind of concentrated effort, using the resources of the entire criminal justice system, focus on a single crime or set of crimes in a limited geographic area and see if we can't bring about some reduction there, hopefully without at the same time bringing about some spillover into a neighboring jurisdiction.

I might say, just as a footnote, that we went through that business in the District of Columbia and Maryland and Virginia. As soon as crime began to decline in the District, it began to rise in the suburban jurisdictions and they began to demand more money from LEAA to cope with what they called the spillover. So we have to take a look at that, too.

There are a couple of other interesting ideas that are new, and one is that the Attorney General spoke about on a couple of occasions and that is that beginning in fiscal year 76, LEAA is going to begin spending more money, more than it does now and hopefully in a fairly comprehensive way, on white-collar crime and official corruption. Somebody suggested to me that it may be too late by fiscal year 76, but we don't think so.

Another area is to develop and encourage implementation of model projects and programs for jurors, witnesses, and victims in order to better serve the needs of citizens consistently. There is a national competition going on right now, which some of you may have heard about, for new ideas in this area. Another area is new, and that is that LEAA is planning to fund some mechanisms in selected cities to bring together social and civic agencies with criminal justice agencies to see if that can't assist in bringing about crime prevention. That sounds a bit like a general let's go-and-do-good idea. The real intent, and we couldn't quite express it that way in a document for submission to the Department of Justice or for publication, but the real intent is to see if we can energize some of the civic and social agencies in the communities which appear all too frequently to fail in their obligations to deal with, particularly juveniles, but others as well, at points in their budding criminal careers when presumably some intervention would help to prevent a further development of that career.

I might just add one other suggestion here about a new initiative, and that is that LEAA itself is going to begin what we call long-range strategic planning. I alluded to that earlier when I talked about what was going to happen at the close of fiscal year 76. We take that question, as I indicated, very seriously, and we're looking very seriously at what those options might be. But we're looking also beyond that. We're looking five or ten years from now into what kind of criminal justice system and what kinds of functions and roles at the federal, state and local levels people ought to perform

so that we can begin to tell the Congress, look, this is the considered judgment, the consensus of the criminal justice community about the directions in which we as a nation—about the way in which the program ought to be developed after 1976.

And Mr. Work, again, asked me to bring still one further message to you, and that is that sometime early in 1975, LEAA is seriously considering having a national conference on the future of criminal justice. In the past we have dealt with a series of commissions of various kinds, all of them performing useful roles, but most of them suggesting, as a whole, what was wrong with things now, and what we might do in the short run to improve them. This conference would have a different objective. It would be to say, we pretty much know what's wrong with what we're doing now, let's think about what we ought to be doing five years from now, and how we might want to work toward accomplishing the things that we see that far along. And if we can look further than that, then that would be well too. Mr. Work asked if people had suggestions about that, either to make them today, or think about and make them to your own state planning agency, but to reflect on that suggestion and see if there is some suggestion you can make that would be helpful in pursuing it. Finally, we would be very happy to have your reaction to the set of goals and objectives that LEAA has developed and which we expect to pursue in the coming year, but which are always subject to change, based on suggestions for improvement.

Question: I have a question for Blair. LEAA promulgated their rule on regulating release of and the use of criminal information as a regulation in the Federal Register, and the date of execution of that was put off. What is the status of that now?

Blair Ewing:

The date of execution is still not certain, and there are some issues that still have not been resolved, and there are a number of bills pending in the Congress, but we're going to go ahead and issue that regulation in the relatively near future, probably, I'm told, in September or October. We have an obligation—there have been suggestions that we ought to put that off until after the Congress has acted, but there's no certainty that the Congress is going to act at all this year on this issue. And LEAA has a mandate under the 73 amendments to issue its rules and regulations. There were hearings around the country on that issue, and there have been lengthy discussions with other federal agencies involved, and as soon as everybody has agreed on what the LEAA regulation ought to look like, it will be issued.

Question: Can I pursue this for a moment? I think this is going to be the big issue of 1974-75, and I noted on your general objectives you talk about utilizing research findings and statistical analysis and so on, which means information systems are going to be a top priority. In referring to Glen's proposed rule-making which LEAA promulgated was a reference that the FBI has proposed—I posed the question to Mr. Work, and I still don't have a response. I'm with the American Association of Motor Vehicle Administrators, and we're interested in motor vehicle information. That proposed rule making, as we interpreted the language, said not only agencies that are receiving LEAA funds for criminal justice information systems, but also other agencies that interface these criminal justice information systems would fall within the purview. This was a rather startling development for the motor vehicle administrators, and as a matter of fact, most of them are not even aware of it. Secondly, NLETS is proposing on a state basis to interface with motor vehicle people. Let me digress for a minute to refresh all of our memories—that trooper out on the road, the one thing that he wants if he can get it is motor vehicle information. Who owns that car? Is it stolen? Is there a wanted notice out? And such things as that. That means the state police or highway patrol have to interface with the motor vehicle department. And yet, if this proposed rule making goes through, it seems to me that this will cut off that kind of possibility. For example, in the State of Massachusetts at the present time, there is proposed legislation which would preclude the exchange of information between the State of Massachusetts, not only with federal agencies, but with other state agencies if they violate certain provisions in there for privacy, confidentiality, and security. To me, it's becoming a rather alarming situation. If, in fact, this interface with other agencies is—what was the intent, and were you aware of the fact of what this will mean to motor vehicle agencies interfacing with state police, and are you aware of the pending, and I'm sure starting in January 1975 we're going to have at least 47 state legislations meetings, and we're going to have this issue, plus, of course, we anticipate that the domestic council report of the vice president will be released by that time—and all of this is certainly going to have a tremendous impact on information systems. I'm just wondering if LEAA is aware of this.

Blair Ewing:

Well, I think the answer is, yes, LEAA is aware of it, and a good many people have brought it pretty forcefully to LEAA's attention, and I don't

think that there's anybody at LEAA who believes that the initial set of regulations is going to solve all the problems, or even be entirely satisfactory. There are differences of opinion to some extent between federal agencies on this issue. And there are some issues which have not been fully resolved either to the satisfaction of the FBI, or LEAA, as I understand it. So I think it's very clear that there are an awful lot of things going on, and an enormous impact on state agencies. We're caught in a situation where we're under a tremendous pressure to issue some regulations initially, even if they aren't entirely satisfactory, and even if subsequently the legislation that comes along changes some of those, as it probably will. So a conscious decision has been taken by the administrators to go ahead with the issuance of the regulation, putting it off somewhat to make sure that all of these factors are at least recognized, if not fully taken into account, and then to move toward whatever changes need to be made at an early point. We were told in August of 73 to issue regulations at the earliest possible point, and it's almost a year. We've got to get moving and get some regulations out. But we do not expect that those will be the last word, by any means.

LEAA has guidelines, as I think most of you know, for the development of comprehensive data systems, and while those follow to some extent the recommendations of the search group, they don't follow them totally, and they leave a lot of leeway to the states, and I think it might be of some help to you if you took a look at those guidelines. They're issued by our National Criminal Justice Information and Statistics Service. If you don't have those, you can get them from LEAA, and you might want to take a look at those and if you have suggestions about those guidelines, I'm sure that would be helpful to us.

I might just emphasize a point that you may or may not have picked up, but the fact is the comprehensive data system guidelines do strongly emphasize and support and suggest a dedicated system. And secondly, those guidelines also suggest doing just the kind of thing that you're suggesting doing in Louisiana, which is to put together a governing board of some kind, or at least a policy advisory board which will give everybody an opportunity to talk about how that system is going to operate and who is going to have what kind of data for what purposes, etc. And some places that ends up being a two-tiered affair with technicians at one level and policy people at another. Sometimes that gets mixed, sometimes there's only a policy group, sometimes the policy group is a sub-committee of the state planning agency, supervisory board, sometimes it's entirely separate. The location, furthermore, of where that system is—if it has any federal funds, is not something which LEAA tries to dictate. It leaves that in every case to the states to decide.

Contemporary Personnel Issues Panel:

Lew Taylor, LEAA:

Thank you, Colonel. In these guidelines, our organization has done an analysis of the new EEO guidelines from LEAA. You'll notice we will not call them affirmative action programs, goals, timetables, quotas—we say EEO Guidelines. I do want to say that it is a privilege to be South—the first time I've ever been to Tennessee. As an overview, in my minimal experience in traveling around the country, I do feel that in the area of equal opportunity, there seems to be more progress being made in the South. So, since I've had an opportunity to travel around the country quite a bit, and as a black and as a minority, I do believe the South is making tremendous strides. I think ten years from now it's going to be a lot better to be in the South than the North. The purpose of these guidelines—it says, "there is a need for full and equal participation of minorities and women in the criminal justice system to reduce crime and delinquency." That is the purpose of all these guidelines. LEAA feels that unless minorities and women are included, that crime and delinquency will continue to grow. That's the primary purpose—to be sure there is equal opportunity. It talks about the application and the recipient. Of course, to define recipient, it includes almost everybody—any state, political subdivision, any state subdivision, department agency, instrumentality receiving financial assistance from LEAA. If you go by these terms, here are the agencies that are covered providing they get LEAA funds: one, if you have 50 or more employees, civilian and sworn. Two, if you have received \$25,000 since 1968. Now those two have to go together—50 employees or more and \$25,000 since 1968. If you have 49 employees, you are not required to come up with this program, with the certification. If you have not received \$25,000 since 1968, you are not required to come up with the certification. Now, if you have 50 employees and \$25,000, you have to come up with an EEO program, because we know you either have 3 percent minorities, or we know you have women in your service population. If you have 3 percent minorities in your service population, your EEO program must include a program to bring in minorities and women. If in your service population you do not have 3 percent minorities, you must come up with an EEO program for women only. It is the obligation and responsibility of you the recipient to, one, formulate a plan, two, implement the plan, and three, maintain the plan. The guidelines do not refer to goals and timetables.

I'd only ask you to think of one thing. If you formulate a plan and indicate that you have problems or don't have problems, how do you get to the implementation and maintenance of the program unless you set up some kind of timetable? Exemptions—under Title 6 of the 1964—those agencies that are educational institutions, general hospitals, medical facilities, and non-profit organizations do not come under the new LEAA guidelines. This responsibility has been delegated to HEW. Some state planning agencies have required the recipient to submit certification to indicate that they do not meet the guidelines. In other words, maybe if you have 40 employees, they still want a certification by the chief administrator indicating that they do not qualify, because many times when you get a new grant, that will bring the number of employees up or will bring you up as far as the money is concerned. Service population. How do you determine how many minorities you have in your service population? If you are an adult, juvenile correctional institution with probation and parole, your service population will be the inmates under jurisdiction. If you are a police department, sheriff, or court, your service population then constitutes your jurisdictional boundaries. Since I'm from Joliet, Illinois—the city limits of Joliet would be the service population for the police department of the city. You would see how many minorities you have within the city limits, because any LEAA grant would only cover the city. Then, of course, the State of Illinois would be for the state police or the court system. This is a definition of minority persons—but I won't go into that. In fact, a lady challenged me in Tampa just last week—why didn't I define women, but I didn't think that was necessary. Evaluation of employment opportunities. Here is what you are supposed to do in your certification or in your plan—you identify and analyze the following: what are your recruitment procedures? What is your selection criteria? What are your promotional procedures? You are to go through and do a job classification by tables or charts, and you are to actually go by each job classification and each job assignment by race, sex, and national origin. In other words, we have so many corporals, we have so many patrol officers—it doesn't say patrolman, it doesn't say metermaid—patrol officers in each of these categories. What are their auxiliary duties, what are their rates of pay, what shifts are they on, and what are their areas of assignments? In most instances, you already have this information. It's a matter of just putting it down in writing. Number of employees in each of these categories and the disciplinary action that's taken place.

Let me digress and give you an example of what can happen if you start to really evaluate. In a plan that I've just recently evaluated, of 23 people who received disciplinary action within the last year, there were

two black male officers and 21 white male officers. No females were disciplined at all. In the discipline that did occur, one black male officer had 50 days off. He had more time off than anybody else, but that's really not the issue. The issue was everyone else who was reprimanded for a violation of rules and regulation received a day off but they were allowed to work on their day off so they didn't lose any pay. But the one black officer received 50 days off and he was not allowed to work during the time off. These kinds of charts should show if there's disparity. Maybe there's nothing wrong, but you want to really look at that to see if there was any racial connotation. On this police force, there were 65 schools attended in one year, and not one woman and not one minority had a chance to go out of 128 officers. That's another thing you want to look at, because then you can't promote if you don't send them to school. That's what these EEO programs will help you identify. That's all it is—to help you identify problems.

How do you maintain the flow of applicants? Who was offered employment, who was hired—and if you don't have a mechanism established to control the flow of applicants, then you are to establish a mechanism to do that. In many instances you'll find that a person applying for a patrol officer, you just mail out the application, and by the name you can't determine whether they are a minority or not. Sometimes you can't tell whether they are male or female. In that instance, most of the recipients who have come up with these programs have not attempted to identify a person as an applicant until they come in and take the test. Prior to that time, they were just making an inquiry. On promotions—who made applications for promotions by race, sex, national origin, the number of each category, and who was promoted out of these categories. Voluntary and involuntary termination—some of you might have heard of constructive discharge. The demographic data necessary to determine how many people are in your service population, how many are eligible to work, how many minorities and women are eligible to work. Then you do a detailed narrative statement of your employment policies and practices, where you think improvements are necessary, the type of tests that you give. Now, for all intents and purposes, we are not talking about just paper and pencil tests. Any selection criteria, whether it's height requirement, an oral test, a written exam, an agility test—whatever you use to screen people in or out constitutes a test. So, we're not just talking about written tests. What are the educational requirements? If you require an AA degree, can you show that a person with an AA degree is a better police officer than a person with a high school education? Is it really necessary, and if so, then there's no problem. Oral interviews have been a serious problem, and have allowed a great deal of subjectivity to enter into interviews, and to screen a number of women and minorities out of applying for jobs. What

is the relationship of what you're doing to the actual performance of the officer? You are to assign someone to be in charge of the EEO program, disseminate the information that you have instituted in your EEO program, set up a minority recruitment program, and then do the recordkeeping and the certification. Once you have put together your plan, you file the certification with your state planning agency or the LEAA regional office, indicating that the certification or the plan does exist. This is the only acceptable form for certification. Some states have had difficulty in coming up with their own revised form, but the regulations say that this is a must. It doesn't say, if you want to, or later on. Guidelines for determining whether or not there is a significant disparity.

Peter Robertson, EEOC:

I consider the business that I'm in very much the same business that everybody in this room is in, and that is the law enforcement business. The statute assigned to my agency for enforcement is the federal statute that prohibits discrimination in employment. This is a statute and a set of laws, as I'm sure most of you know, that generates a fairly intense, emotional reaction for a number of people. The efforts that were expended to pass these laws were not without opposition in the Congress and in the country. Many of the members of the Senate and the House from the states represented here opposed this legislation when it was in the Congress. But the emotionalism that these laws may have generated as they were being considered, and that some of them generate as they're now being enforced either by my agency or by the Department of Justice or by the courts is not really what I want to talk about today.

I want to talk as a lawyer to a group of law enforcement officials about a fairly hard-headed, factual approach to figuring out what it is that these laws require, and figuring out what the best way is to see that they get implemented and to see that the emotionalism is toned down and eventually eliminated. I'm sort of proud of a little bit of my own personal heritage here in the South, so I'm going to bore you and tell you where I come from, because it sets a context and a framework in which I try to approach this enforcement problem, dealing with a factual situation that some people may not be too happy about, but which they may realize that they have to make an effort to implement.

My great, great-grandfather was the Mayor of Nashville. His name was John M. Lee. He was a judge, and in 1850, the Mayor of Nashville, and

then after the Civil War, a judge. My family has always taken great pride that in the years after the Civil War, when the North and the South were trying to figure how to put it back together again, he went to Washington and met with President Johnson who, of course, had served previously as Governor of Tennessee, and they tell me by family tradition, and you know how sometimes these things get exaggerated through the years, and I can't prove it, that the moderate position that the national government took towards the reconstruction of Tennessee was heavily influenced by Mayor Lee's approach to getting Tennesseans to work out the problems here on the state level. He recognized that many people were not too happy with what had happened, but he also recognized that it was a fact and that problems had to be dealt with and solved on a calm, quiet and unemotional basis. He was able to come up with a program to do that, and he was able to sell to Washington that it could be done on the local level, and the tradition as I've been told of it, was that the reconstruction effort in the State of Tennessee was much milder than it was in many other states because of this effort. Now that's a good family tradition. I don't know if it's true or not, but the spirit behind it is the spirit in which I want to talk to you today.

The spirit in which we are confronted with some laws on the books that create some problems, for us as an agency assigned by Congress to administer and enforce those laws, and for you, who have to find out a way to live within their framework, and still do the job that you are charged with by state statute, running the police. And I'm aware that the relationship between our agency and yours is sometimes friendly and sometimes we are sitting on opposite sides of the table in more than the symbolic sense.

I have to tell another personal story before I get down to the meat of my presentation. On the way down here I stopped in Chattanooga where my grandfather lived and was a preacher from 1901 to 1923 and I went to the church where he used to preach, and I think the minister must have known I was coming down here, because he chose as his text for his sermon, "I am sending you out like lambs among wolves." I don't know or not, but I hope I'm not too much of a lamb, and I hope you're not too much wolves, and that together we can talk about some of these mutual problems we confront. When I call it a problem, I think I'm being honest. I think I would be less than honest if I didn't say it's probably not the highest priority problem sitting on many of your desks. People who come in from Washington to talk about a given area of concern tend to think that's the only thing you have to deal with. I've talked to a number of

you here, and I did a similar session up in Indianapolis with another region of the IACP, and I got a chance to hear some of the problems that the various state police, highway patrol, public safety departments are confronted with across the country. Many of them are similar, I discovered, to problems I confronted as the head of a state agency in Missouri, dealing with a very different set of problems, and if I were to frame a conference like the one you're having, I think I'd put on it "conference session on the care and feeding of a legislature," or how to deal with an appropriations committee, or how to get your building built. I talked to Colonel Jones from North Carolina who told me that his legislature brutally forced upon his state troopers a pay increase of 12 percent, against his will, but that he did reluctantly accept it.

So, I come out from Washington to bring another problem to you, a new one to add to your list. But it really isn't a new problem at all. The theme I want to deal with is sort of the evolution of the issue of discrimination, because I think a quick, historical overview can put some of the legal issues—but the bottom line in much of these legal discussions comes down to the term discrimination. The federal statute that my agency administers makes it illegal to discriminate in employment because of race, sex, religion, or national origin. The theme that I want to talk about is what is discrimination. Pretty generally, when I start talking about that theme, and word it in that way, an awful lot of people say, well, gee, we know what discrimination is. And I may be talking on too elementary a level, but it helps me when I deal with the many questions that come up in a meeting of this type, to just run through very quickly, the historical evolution of the definition of this key term. And as you know, as you train troopers that do your law enforcement, in various areas of the law there are key terms, and if you don't know what that term means you can't do a good job of enforcing the law. If somebody's accused of trespassing, you have to know whether they're a licensee or whether they have permission or whether they are in fact trespassing before you kick them off. We train our investigators and we spend a lot of time talking about the definition of the term discrimination. I want to outline the three historical stages through which the definition of the term discrimination has gone.

Originally, discrimination basically looked at the state of mind of the individual perpetrating a certain act or practice. Those who were opposed to discrimination may have said that a person who was discriminating had an evil state of mind. He or she took the position, I don't want any woman in that job. It was direct, overt, specific, and

it was related to something going on inside their head or their stomach. And the statutes and the activities of government designed to deal with discrimination were very much focused in dealing with the state of mind of people. You had religious activities, brotherhood week, activities devoted to getting people to love one another and so on. It was not very much of a law enforcement context. We use words like bias or prejudice, which really focus on what's going on inside a person. I am taking a certain act because I am biased against a certain group of people. People's thoughts and feelings and emotions are really not a very good area in which to focus our law enforcement efforts.

When they began to talk about putting laws on the books to deal with an issue, the courts began to come up with a second definition of the term discrimination. They began to look at the treatment—the way people were treated, and basically the definition of discrimination was that it constituted unequal treatment. Blacks were treated differently than whites, Anglos were treated differently than Mexican-Americans, men were treated differently than women. And the law enforcement effort, for example, my agency has responsibility for receiving complaints alleging that someone has been discriminated against. In the early days, the investigation—I was in Missouri ten years ago working for a state human rights commission—and when we would investigate a case, we looked primarily at the equality of treatment. You would have a white with a high school diploma and a black with a high school diploma, and the white was hired and the black was not. If you couldn't come up with any other investigation for the difference, then our investigations would assume that this was unequal treatment because of race. Now they might have been able to show that there was something else that was disqualifying this individual. In that case, there would have been no finding of discrimination. But our activities, our investigations, and once we found discrimination, our remedies. These are not criminal statutes. When you find discrimination or a violation, we're not punishing, but we do impose as a matter of law a remedy. Discrimination has to be eliminated. And in our investigations and in framing our remedies at this stage, we focus primarily on unequal treatment, and we would look to see if people are being treated differently as a function of race. The third stage of the definition of discrimination is really where we are now. We are at a stage which some people call the impact theory of discrimination. Other people call it effect. You may have a practice in which everybody is treated equally, but the effect is unequal. So you may have a test or an educational requirement or some other practice that has a disparate effect, an impact on a particular racial, ethnic, or sexual group, and that's the kind of practice we're dealing with. The law does not say that

anything you do which has an unequal impact is illegal. That would be unreasonable, and although the courts and the judges sometimes do some pretty nutty and unreasonable things, I think in this case, they tried to draw a fairly reasonable line to guide us in examining the practices of various employment institutions in this country. The case in which these principles were enunciated was the case of Griggs. In this case, the company was utilizing a high school diploma and a written test as part of its screening and hiring practices. The courts took a good, hard look at these practices and came up with some guidance, at the Supreme Court level, that I think provides some instruction on where this field is going. I've taken one sentence out of the Griggs case and broken it down into six elements, and I'd like to talk about the full sentence and deal for a moment with each of the six elements, and then I'll sit down and see what Bill O'Connor has to say about some other specific cases in the law enforcement field.

In the Griggs case,—incidentally, this case was decided by a unanimous Supreme Court, and for want of a better term, it's what you would call the Nixon court. I don't share all of the critical things that were said about the Supreme Court under Earl Warren, but there certainly is a perception that the Burger court has set a more conservative course than Earl Warren's court set. I think it's important to stress that this was a unanimous decision, and the language that I'm going to quote was written by Warren Burger and concurred by the other Nixon appointees to the Supreme Court. This isn't some old principle that's about to be phased out, we're talking about a principle that this present court strongly endorses. The Supreme Court first took notice that the power company had done a great deal to attempt to recruit, hire, and upgrade blacks. They had set up a scholarship fund, they had gone out and actively recruited in the community, they engaged in a number of activities that would focus on this first kind of definition—a state of mind. Did they want to do something for blacks? And it was very clear that you could not show that they were trying to exclude blacks. Just the opposite, they were able to prove that they did a great deal to include them, to recruit them, to upgrade them, to give them training. The Supreme Court specifically commented on that, but it said that is not enough. That does not meet the test under the law which stands today. So they rejected as the sole definition of discrimination an examination of the state of mind or the intent of the company. Secondly, they examined the specific actions and practices and they found that the company was treating people equally. They were giving the same tests to blacks and whites, they were requiring the same high school diploma or its equivalency of blacks and whites, and they were in other relevant ways

treating blacks and whites on an equal basis. The Supreme Court said that's not enough, there can be some equal practices that can be illegal and discriminatory. They went on to establish the tests—they took a look at those practices. Do they have a disparate effect? Do they weed out more blacks than whites? Do more blacks flunk the test than whites? Do fewer blacks have high school diplomas than whites, and so on. The Court determined factually that a high school diploma was something that a very few percentage of the blacks had compared to the whites, and they looked at the results of the test, and very few blacks, again on a percentage basis as compared with whites, passed the test. They said, if that's the case, then the company is using a practice that weeds out more blacks than whites. It appears to be discriminatory, unless the company can show us that these practices really get people who can do the job. And that's where you get a job-relatedness test.

Now the sentence that I like—the quote from the case is "If an employment practice which operates to exclude Negroes cannot be shown to be job related, the practice is prohibited." Let me break the quote down into its six elements.

The first thing is an employment practice. He was dealing with a written test and with the requirement that you have a high school diploma, and he could have said, if a written test and a high school diploma operate to exclude—but he didn't say that. He said employment practice, and I think it means a great deal. What's an employment practice? It is an employment practice to engage in word of mouth recruitment among an existing white work force. That's an employment practice. Does that practice operate to exclude blacks? Yes. Predictably it will, the courts have held. It's an employment practice to use height as a job requirement, to use residence as a job requirements, to run an operation with a cadet program or without a cadet program. There are a lot of things that are employment practices that aren't just covered by the term test or qualifications. I don't know how far the courts will go when they deal with the Griggs case. Even Government lawyers in Washington disagree in their discussions with each other as to how far this case will be carried. But Chief Justice Burger was on a TV show once and he was asked, what is the most important case that you have decided in your two years on the Supreme Court. He wouldn't answer the question at first. Sitting judges really don't like to talk about specific cases. But they pushed the question, and he finally said, "Well, they tell me the case with the biggest impact will be the Griggs case." I interpret that to mean that he had a perception this case covered more than just high school diplomas and tests. And the

language he used suggests that to me. Any employment practice—any way you have of doing business which operates to exclude is prohibited if it cannot be shown to be job related. Take a good, hard look at how you're really doing business. There may be things going on that you wouldn't even think to label a practice. The employment practice operates to exclude. That's a statistical question. Some of you may have wondered why you're asked by the federal government to fill out report forms. You have to give a work force breakdown. One of the reasons is because the Chief Justice of the United States has said that the first step in measuring whether a practice is illegal is a statistical step. He has said, let's take a look and see if the practice operates to exclude. The quickest way to do that is look at the statistics to see if somebody's been excluded. If you have an operation with 300 people and you have 3 blacks and 2 women, something has operated to exclude. It doesn't take a genius to come up with that answer. Just because an employment practice operates to exclude doesn't mean it's illegal. The rest of this tells us what we have to go through to determine whether it is illegal. This particular case did deal with blacks. Griggs is not a black case. It's a female, an Indian, a Mexican-American, a Polish, a Jewish, a Baptist case. If you have an employment practice that operates to exclude Baptists, it's illegal if it cannot be shown to be job related. I want to point out that this is not just a principle that applies to blacks. This fourth one is very important—cannot be shown to be job related. If the statistics are like this, and we identify the employment practice which causes them, I don't have to come in as the government and show that it is not job related. The person using the practice has to show that it is job related. We're talking about burden of proof. The burden of proof situation as decided by the Supreme Court in discrimination cases is that once an employment practice has been shown statistically to exclude a group, the burden of proof shifts to the person using that practice to show that it's job related. There's a lot of heat generated by that particular phrasing of the law. I think it's heat generated by the fact that we have not adequately enunciated just what it is that the Supreme Court has done. Somebody will say, the statistics are bad. Now you prove this. We get the question, well, where's the discrimination. Where's the complaint? Nobody's filed a complaint. The Supreme Court has said that the first step is not necessarily someone filing a complaint. It's a set of statistics that shows that the practice has operated to exclude. Okay. A practice operates to exclude, and the burden of proof shifts to show something. What do you have to show? You have to show that it's job related. Now what does that mean? Well, you've probably heard the phrase "validated." Basically, what it boils down to is have we got

something that selects people who can be better troopers? That's what the personnel selection system is ultimately all about. Occasionally I hear—particularly when I talk to people who are responsible for government employment and have to work within the framework of a merit system, and I start talking about the impact of the Griggs case on written tests and other things—they say, gee, Robertson, aren't these cases going to throw out the merit system? I don't think so. I think they mean the same thing the merit system should have meant all along. To me, all the word merit means is that you pick people on their merit. And I think what that means is that merit is the ability to do a job. Now the term merit system came up and what you were comparing was ability to do the job versus ability to know some politician. You have a merit system, so we didn't get somebody appointed on the basis of their political relationships and favors and so on. But the goal was the same of the merit system originally. To get people who could do the job. And I think that's all that Griggs says. That's something that all of us are in favor of. I don't have any particular interest in seeing any state in the country hire troopers who can't be troopers. I don't know when I'm going to be out there on the other end of something, and I'm going to want a good trooper to help protect me.

Two days before I did the presentation in Indianapolis, I woke up in the middle of the night to the sound of breaking glass. It turned out a tree limb had gone through a neighbor's window. But both the neighbor and myself had the police there in about four minutes—I didn't know whether it was somebody breaking in or not—at 3 in the morning, I wasn't going to check it out. And I was very pleased that the police were there in four minutes and I wouldn't want to be responsible for imposing a system that would mean next time they were going to be there in ten minutes. Because next time it may not be a tree limb, and ten minutes is a long time if somebody's broken into my house. So, I've got the same goal anybody else does. I want the people who serve as troopers to be able to be troopers. But what the courts have told us is that many of the things that we're doing in the personnel field don't, in fact, predict ability to do the job.

Now one of the things that has created the most opposition, and also the best humor—but it gives you an example of how the Griggs case is applied—is the issue of a height requirement, in which the practice of having a minimum height requirement—let's say 5'9"—operates to exclude women. The courts have held that it has not been shown to be job related. Just before I was going to speak to the group in Indianapolis, one of your colleagues, the Colonel and head of the state police from one

state observed to one of his fellow executive officers, looking across at me and Bill O'Connor and Lew Taylor, and he said, "Well, those are the fellows who are going to talk to us about hiring midgets and broads." There's a certain amount of fun and humor, and I don't think the court is going to say you have to hire somebody 3'6" to be a state trooper. But 5'9" leaves out 90 percent of women and only 40 percent of men. So far in the court cases that have been brought and the various police departments that have confronted this issue have not been able to satisfy the courts that it was a job related requirement. One of the cases I have here involves a gal by the name of Elizabeth Smith versus the City of East Cleveland. The City of East Cleveland came in with about 12 reasons why they thought the height requirement was related to job performance. There were a number of days of testimony. They brought in expert witnesses, and the judge came to the conclusion that they had not made the case. I think it's one of the more interesting ones on the height requirement. I won't go into detail but I'll read just the headings: physical strength, physical fitness, physical agility, ability to view crowds, arm reach, ability to absorb blows, ability to impress others. I think the court was a little bit amused when they said the average height of a crowd was 5'8", therefore, you needed an officer who was 5'8" who could see over the crowd. They took judicial notice of the fact that the eyes of policemen did not grow in the tops of their heads. Again, there's a little attempt on the part of the judge to be humorous with what is a serious issue, but it pointed out to me that we tend to take for granted a certain way of doing things without really sitting down and subjecting it to this kind of analysis.

Question: What exactly does "any protected class" mean?

Peter Robertson:

Well, that wasn't in the original quote from Griggs. That's just my way of indicating that it's not just blacks. That same principle applies to women, to any practice that would have the effect of excluding a group for racial, sexual, or ethnic reasons. I haven't seen a case on it yet, but I think we'll eventually get one, where a practice may have the effect of excluding some Polish, Ukranian, Lithuanian group. I think it's a legal principle that is perceived generally as protecting blacks and women.

The punch line at the bottom of all this—you've got a practice that operates to exclude and it hasn't been shown to be job related, so what? Well, it's not nice to do it. It's unfair, it's unreasonable, it's immoral,

it's unethical. We are not making any of those value judgments at all. We're simply stating the fact that the practice is illegal and prohibited. People who engage in these kinds of practices are not bad people, they are not evil. They just happen to be engaging in something that the Congress and the courts have said is illegal and it has to be changed. Bill will talk about what the courts have been doing by way of remedy.

Once something has been identified as being illegal, what comes next? As I talked to you, a number of you talked a lot about recruitment problems. I'd like to hear some of the things that work in the area of recruitment because that's clearly one of the big problems. The courts are clearly going to say that if you have a recruitment system or practice and you're not getting blacks, that may be illegal. So you have to change it. I think each of you has the knowledge and ability and responsibility within your own agency to solve these problems. As you know, state by state we're reaching the point where, either as a result of government action or often by private action, lawsuits are being brought where this concept that the practice is prohibited is being dealt with very strictly by the courts. I don't have the answers, but I have given you the legal framework in which I think we're going to have to find the answers.

And it may be that the initial proof only has to be statistical. I don't think the courts have done that yet, completely, but as I look to the future—you start getting into the situation where you have 5 or 600 people. You have a 25 to 30 percent black, and a 50 percent female population and you have about 10 blacks and about 10 women. And the person starting the lawsuit can't exactly prove what it is that excluded blacks and women, the court can shift the burden to the employer to show two things: First, what caused the statistics, and second, that the thing which caused them is job related.

Question: We're meeting the same problem, and I think at times our problem is on the other side. There are—the majority of blacks in the age group that we usually hire, are not as interested in becoming troopers as the majority of whites at that age group. This is where we're finding our difficulties. We have an active recruiting program for blacks. We can't get blacks, they're not interested. Maybe somebody could respond to that.

Peter Robertson:

There's an answer that Lew gave to this question.

Lew Taylor:

Well, it's more of an analogy than really an answer, but suppose that you came to Nashville as a part of IACP, and you got in a little early and you thought you'd go have a drink. So, you're walking down the street, and you hear some nice music so you get ready to walk in, and there's a sign up there that says, "Whites welcome." So you walk in and everybody has an Afro twice the size of mine, and somebody comes up and says, "Hey, what's happening, fellow? We've been looking for your kind in here for a long time." The question is, would you walk in and have a drink if everybody in there was black? And basically, now that's kind of a bizarre analogy—but that's one of the reasons blacks don't apply. There's nobody in there that can say that once you walk in you can be assured you'll be treated fairly. In most instances, there are no blacks or women in the upper echelons, and I realize you've inherited a system that is a problem for you. Basically, the reason blacks don't come in is because they don't believe that they're welcome. And if you walked into this situation even though someone told you you were welcome, you'd feel very uncomfortable, and you couldn't guarantee—if I welcome you in, I couldn't guarantee that every black in the place would treat you fairly. That would be the real issue.

In terms of where you go to break through that, the principles that would guide me—one is what I call the one to one principle. I'd try to set up a recruitment system where at every key point along the way, the conduct was on a one to one basis.

Bill O'Connor, Department of Justice:

We have a problem in law enforcement. The Department of Justice is the agency that has the biggest responsibility in this area because, under the statute, the Attorney General is responsible for enforcing the practice aspect of discriminatory employment, or the denial of equal opportunities. I want to spend just a minute explaining how the agencies you're hearing from relate to each other and to law enforcement, so that you may have a grasp of how we see each other and how we work together and occasionally not together.

LEAA, as you know, is the money machine. That's where a lot of money comes from to go to all the law enforcement needs of the nation, and in a very real sense, it's very similar to revenue sharing, which is one of the administration's primary systems for assuring that money is used to help

the people who need help in the states. LEAA is the law enforcement dimension of that, and they are responsible for passing out funds consistent with the law. Lew went through a group of charts and he gave each of you an explanation paper that explains how LEAA assures itself that the law is being enforced when it gives out money. Quite simply, if they don't insist on certification that the law is being complied with, they're not doing their job and they are in very serious difficulties. So they have a responsibility to insure both that the certifications are given as the regulations require and that the procedures required are implemented. A lot of you, gentlemen, aren't the ones who implement those procedures. And that always gives me a problem, because you are the operational chiefs, and in many cases you don't have a thing to do with making up the forms, and you are the beneficiaries of whomever does that. But the consequence of whatever is done in the preparation of those papers impacts directly on your operations and on how much compliance or non-compliance you are either credited with or blamed for.

EEOC, the Equal Employment Opportunity Commission, has a discrete responsibility. It has a nationwide responsibility for insuring that practices of discriminatory employment are eliminated in the private sector and for receiving complaints in the public sector, and in appropriate matters, it may refer the complaint to the Department of Justice for action here. That is similar to LEAA. Both EEOC and LEAA may feed problems to us. That doesn't mean we can solve them.

We have a unique responsibility in the Department of Justice. We have, in my division, the Civil Rights Division, the responsibility for patterns and practices of discriminatory conduct in state and municipal governments. That doesn't just mean police departments, it means every component of the state government which is hiring. Our litigation has covered a variety of non-police type problems. On some occasions it's gone from the garbage man all the way up through the clerks of the courts. In some instances, it's dealt with the fire departments, and in others the police departments. In some cases, we have dealt with state patrols. But, in all cases, it's the pattern which we must deal with.

We have had a long time to study the Griggs matter. It is, as you have been told, a keystone in the architecture of non-discrimination in employment. You have been told, I think very articulately, what it can mean and what it does mean in terms of measurement and design and analysis of the operations of any particular government entity. The several agencies of the federal government that deal with this area—EEOC, Department of Justice, Civil Rights Division, the Civil Service Commission—met together after the Griggs decision and articulated a federal policy to be

applied by all federal agencies, and, of course, by the Department of Justice as the major responsible agency for dealing with discrimination matters, to define what we could, would, and should do with patterns of discrimination that were announced by statistical data on the EEO forms that are generally prepared by agencies. That was because we saw something looming on the horizon behind Griggs, and that was a thing that I will call the quota trap.

One of my objectives today in talking to you is to try to help you perceive the quota trap and try to talk with you about ways and means of avoiding this. If you follow the Griggs case to its logical conclusion, you reach a position that was reached in Mississippi in a privately brought litigation, in which the Fifth Circuit marked down some hallmark law. In effect, the Fifth Circuit said, quotas are an appropriate means of resolution of patterns of discrimination, at least for temporary periods. That is not consistent with the policy of the federal government. The concept of quota versus ratio or affirmative action. The first paragraph of this statement which was subscribed by all of the components of the federal government responsible for the implementation of the policy set forth in Title 7 of the Civil Rights Act of 1964 as amended in 1972. This administration, and that refers to the Nixon Administration, has since September 1969 recognized that goals and timetables are, in appropriate circumstances, a proper means for helping to implement the nation's commitments to equal employment opportunities through affirmative action programs. On the other hand, the concept of quota and preferential treatment are contrary to the principles of our laws and have been expressly rejected by this administration. The tension between Griggs and this policy statement should be manifested.

Our responsibilities as officers of the Department of Justice are to enforce the laws, and the Constitution is one of the laws and the policy of the federal government is articulated here. The distinctions made between quotas on the one hand, which are not permissible, and goals and timetables are important. A quota system, applied in the employment context, would impose a fixed number of percentage which must be attained or which cannot be exceeded. The crucial consideration would be whether mandatory numbers of persons have been hired or promoted. Under such a quota system, that number would be fixed to reflect the population in the area or some other numerical base, regardless of the number of potential applicants who meet necessary qualifications. If the employer failed, he would be subject to sanction. It would be no defense that the quota may have been unrealistic, that there were insufficient vacancies, or not enough qualified applicants. A goal, on the other hand, is a numerical

objective, realistically in terms of the number of vacancies expected, numbers of qualified applicants in the market and thus, if through no fault of the employer, he has fewer vacancies than he expected, he is not subject to sanction, because he is not expected to displace existing employees or hire unneeded employees to meet his goal. Similarly, if he has demonstrated that he has made every good-faith effort to include persons from the group which was the object of discrimination into the group being considered for selection but has been unable to do so in sufficient numbers to meet his goal, he is not subject to sanction. Unlike quotas, which may call for preference for the unqualified over the qualified, or the less qualified over the better qualified to meet the numerical requirements, a goal recognizes that persons are to be judged on individual ability and, therefore, is consistent with the principles of merit hiring. That's the policy of the federal government.

The decisions of the courts are not part of the executive branch. It is part of the judicial branch, as you all understand. Thus, each agency of a state or city is in a position of choice. Deal with the problem yourself, deal with the problem effectively, deal with it now, and deal with the executive branch. Or fail to deal with it effectively, fail to deal with it now, and deal with it in court with an adversary who will be enforcing that which has become the law of the land in the circuit in which you find yourself. The Fifth Circuit, which covers Mississippi, Alabama, Georgia, and other southern states, has spoken very strongly on the issue. In each of those cases, quota hiring has been articulated as an appropriate system for resolving the effects of past discrimination. And it has been articulated as a lawful means to be employed by a judge in bringing a system into consistency with the Constitution. I'm not saying that the Constitutional standard required by the courts is a higher standard than is required by the Department of Justice or the Executive Branch, or the agencies. I'm saying that the approach is different.

In the law enforcement field you might find, on occasion, you solve a problem on the block with some kid who steals a bicycle by telling the kid to take the bicycle back, and that's the end of it. The kid doesn't take the bicycle back, and maybe he winds up before the juvenile judge. That's unfortunate, because he should have taken the bike back in the first place. Executive versus judicial sanctions come into play. The necessity for the establishment of an affirmative action program with goals and timetables and recruitment systems that work now are each of your responsibilities. There may be a different way to meet it in each of your states. There may be a different way to meet it in each

county in your states. It may be appropriate that one or another state patrol may find that certain counties have options that don't exist elsewhere, that troopers who are working in one area of the state are more effective in recruiting and developing good prospects than in others. It may happen that in a number of ways you can expand your operational recruiting systems to engage the interest of minorities and females in areas where they have not been found. If you can't find that resource in your existing personnel, then you have to look pretty closely at non-available in-house resources to find a way to remedy the situation you have.

The statistics are just outrageously against you. The court in Mississippi said that 5 out of 543 state patrols were black. In Alabama, 13 out of 335; in Georgia, 7 out of 677; in Texas, 16 out of 1,356. Well, with those statistics and the analysis of Griggs that you have, you can see that those states and others like them are in big trouble if they don't urgently move to correct that situation which has produced the statistics, and you can also see that those states that don't will be boxed into the quota trap. That's not good for law enforcement.

The law enforcement system seems to me to require the best qualified human beings you can get to do the job that each of you is sworn to do. What are the qualifications to be a good law enforcement officer? I imagine that there are 40 people in this room, and I'd get 40 different answers. But one thing I'm sure I would get is intelligence. Another thing is flexibility. Another thing would be a cool head, good judgment. Some of you might say size, some might say sex, and those who said that might or might not have facts to back up your positions. Do you have in your selection systems adequate measuring devices that have been proved to measure judgment, flexibility, intelligence. I doubt it. I doubt it because those instruments haven't been developed in the form of paper and pencil tests. There are studies being funded by LEAA which are moving in that direction. But in the meantime, there aren't good paper and pencil tests to measure the dimensions of a good law enforcement officer which can be proven to be both job related and not have a discriminatory impact. That's one of the problems you have. The problem comes from having an almost all white work force and, generally speaking, an all male work force. You don't really know what to expect outside of that limited circle. That doesn't have to be the way it stays. Each of you can work to find devices that measure effectively, and each of you can design other means of selection that will not be racially or sexually discriminatory.

Physical agility is clearly a need for any person who is going to be engaged in the occasionally, and I hope infrequently, rough and tumble activity of law enforcement. No one could fault a physical agility test that required people to do many strenuous and delicate acts. I think most of you have such tests. No one could fault a system that operated to insure that at least modicum of intelligence was found in the people who were hired. . How do you measure that? In the State of Maryland, we entered into a consent decree which uses a high school diploma as a criteria for selection. We also agreed that physical agility tests were appropriate, and a variety of other things. Maryland, on the other hand, abandoned the sex requirements, understanding that the women who were hired by Maryland would have to meet the standards which were required of everybody, not the standards that were required of women as a separate category. If you hire a woman to do a job in law enforcement, she has to be able to do any job that anybody else is going to be able to do. If she is either psychologically or physiologically unable to do that job, there is no reason on earth why you should hire her. But, on the other hand, there is no reason on earth why a woman should be held to a higher standard than a man, or that a standard should be set that bears no relationship to the realities of doing the job. Certain jobs obviously have a sexual dimension. Without appearing to inject too much levity, undercover work may be appropriate for only certain kinds of people. Maybe in some cases only men, maybe in some cases only women. But the dissemination of specific responsibilities for specific people is a common place of law enforcement, and of the available people. If you need someone who will appear to be heavy and short, you'll use that kind of person. If you need someone who is tall and thin for a special job, you use that person. That's a special job, not the general duties.

The business of federal law enforcement is a regulatory business, just as the business of state law enforcement is a regulatory business. You are engaged in enforcing laws that you are sworn to support. So are we. That doesn't mean we're sworn to do stupid things. If there's a reason why women aren't appropriate in a state patrol situation, then it ought to be measurable. If you can't measure it, the presumption is it's not there. An emotional concept, which because of my age I may share, that women ought not be doing certain things is not consistent with the law. That's an emotional view of my own, perhaps, but it's not the law. The law is that women are equal to men and must be treated as equals. Make your system one that's fair. Make it one that requires things of everybody and any woman who wants to come into your system must meet those standards.

The race issue seems to me to be basically one of recruitment. If you can't traverse the recruitment problem, you aren't going to traverse the racial problem. And you're going to get sued. You're not necessarily going to be sued by the federal government. We can only sue so many people. But there are a lot of organizations that are going to sue you until you don't know what hit you, and that is not to the advantage of your operations, and it is not to the advantage of law enforcement. It puts you in the untenable position of being sued for failing to enforce the law when you are in the law enforcement business, and that's outrageous. Moreover, there is another problem that is one that you must always be aware of and that is the least qualified white standard. I may have said it before, but I'll say it again. In the prosecution of a number of Title 7 cases, in the private sector, it was frequently the position taken by the courts that admission to entry level jobs was to be held to standards consistent with the least qualified white standard operating in the past. That was because, and it grew out of the trade union area of the law—that was because the trade unions were basically nepotistic entities. They held out by union constitution in many cases, as some of you may know, a preference for sons, cousins, and relatives. And there were informal preferences given as well. And that sometimes meant that Uncle Charlie's idiot nephew Bob wound up holding a paintbrush somewhere or hammering a nail, and that man was being paid at the rate of a union tradesman and that man was absolutely unqualified, but the net effect was that in the law, as the courts developed it, that that standard was applied across the board for entry level jobs. If you want that to happen to you, let yourself get sued and it will happen. I'm trying to sound a warning, I'm not trying to sound a threat. I'm trying to say to you that the law is moving very fast in this area. It is not, as I have tried to explain to you, moving explicitly and consistently under the control of the executive branch. It is moving in the control of the courts and the courts, as you know, in many areas of the law will go a bit further than you may think they should. Now, if that is going to happen to you, you will have only yourselves to blame, and it isn't a desirable consequence.

Many of the state police organizations up to about ten years ago, very candidly had a policy of not admitting blacks to employment. I've been told that, unofficially, by executives of state patrols, not to name anybody. I understand how that was and how our system has been. I've lived in it as long as many of you and longer than some. The problem with that is that you have inherited, as one of my colleagues said, a system that was a problem when you got it, but you didn't know the problem was there. If you had a practice, as the trade unions did, of nepotistic hiring and

exclusion of blacks in your state patrol, and if you have a statistical component which meets a Griggs test, and if you get sued—I think you can see the handwriting on the wall.

That's a very, very fast and, I guess, not very loyal presentation in some respects. I'm afraid I'm a little profane in spots. But the message I'm trying to give you is this: the federal government has a policy against quotas, in favor of affirmative action, in favor of goals. The Griggs case leads directly into the quota trap. Each of you has a responsibility to insure your organization's effective operational efficiency. Each of you has a responsibility to get the best people into your organization that you can. That means each of you has a responsibility to fix good standards, honest, fair standards that define qualifications that are needed for law enforcement. Not because you scratch your head and come up with an idea—this is a good thing, but because you know and can prove in court if you have to that it works. The gentleman who commented on the Cleveland case made the point very, very well, I thought. When the burden of proof has been shifted by the court onto a party and the party fails to meet the burden of proof, the decision of the court is pretty obvious. That doesn't mean that the decision has to be that way. It means that the guy who was in charge of the defense of the case failed to meet his burden of proof. You aren't going to meet the burden of proof about not hiring women by saying, "Ladies ought not do jobs like this. Ladies aren't strong enough. Ladies aren't tall enough." And you aren't going to meet the burden of proof by saying, "Blacks don't want to be state patrolmen. Blacks don't want to be this or that." You can't meet it that way. If there is a reason why women can't do a particular job, it's measurable. Just as measurable as speed on the highway. You can find the tools to measure it, but you have to look. If you don't look, you're going to wind up looking at a court. And the court is going to tell you, "Well, gentlemen, I don't care how you do it, but one out of the next two or two out of the next three are going to be this," and that is going to take you to the position articulated in the cases that I originally cited which say that the result may very well be that a less qualified person is hired over a more qualified person simply because you are on a quota system. Specifically, in NAACP vs. Allen, the court said this: the affirmative hiring procedure required could compel the defendants to employ a less qualified white ahead of a more qualified black applicant if the last person hired by the patrol was black, and vice versa, that is, a less qualified black ahead of a more qualified white. That is just an outrageous way to have your law enforcement system constructed, and that will just result in performing less effective service to the people that you serve. And that ought not be allowed to happen. If you let it happen because you paid

more attention to something else than to this, or because there was some oversight about the importance of this area of the law—I'm not talking only about the importance of getting minorities and women into your operations as a matter of law, I'm talking about the integrity of the operation of law enforcement systems. If you gentlemen believe that a law enforcement system that hires less qualified people because they're next in line is going to be a good law enforcement system, you don't demonstrate—but I think you do demonstrate, and that's a high degree of intelligence in law enforcement. You have to avoid that problem. You have to avoid the quota trap, and you have to spend your time, money, effort, and personnel on finding ways to do it. And I hope that we can help you do that.

LEAA wants to work with you. LEAA has a practice of sending survey groups, technical advisory groups to work with various state organizations to try to help you find systems that will work. EEOC offers technical advice of various kinds. I'm not in the technical advice business. I'm in the prosecution business. When we get the matters, we will try to work something out as we did in Maryland, if we can. We believe, in the Justice Department, as everyone I'm sure does in law enforcement, that a system that is agreed to by the parties involved is a better system than one that is imposed arbitrarily from the outside. To get to the point where a matter referred for litigation because of failure to comply with the law and to have the entity that is referred a law enforcement agency is a very painful thing.

Glen Murphy:

I have laid some materials at your seats for you to see some of the things that we in the Legal Section are trying to do in the labor area. It's just for your information, and hopefully, it will be informative to you. I would draw particular attention to the brochure on the Police Labor Relations Institute. Another document that I gave you is the Department of Labor Fair Labor Standards Act and the amendments to it on wage and hours. Let me make a point. This copy you have is an analysis that we made of the statute. The point that I would like to make on this, and I think it's important that you consider it, is that there are no federal guidelines yet established in this area. Now some of you, like Louisiana, the state has gone ahead and made some regulations of their own, prior to this bill, but there are no guidelines out on law enforcement. For example, on August 9 there's a big program up in Washington that the federal Civil Service is putting on this bill. They're suggesting that you send personnel up to it. My suggestion is to stay home, because all they're going to do is guess what's going to come out in the guidelines in late September and unfortunately, some of your state personnel people are guessing now and

are starting to put together some guidelines on the federal wage act that also is guesswork. If you can, try to head them off at the pass a little bit and wait until those guidelines come out. We've also put in here some of the testimony that we've put before the committee when they were considering the wage act. Another document that we have is an article that we put together on critical issues in public labor relations that I only brought a few copies of.

We now have a Public Safety Labor Relations Center going with the IACP and it's a service for you. One of the first things that we did, of which this blue book is part, is a review of 30 jurisdictions in depth. Four of them were state police agencies, 26 were metropolitan agencies, of various sizes across the United States to look at the labor relations issues within the departments to see kind of the state of the art. This morning this is the type of thing that we'll talk about—what it means, and where it is in the country.

One of the things that we have to define when we are in a discussion like this is what is a union? Or what is an employee organization, which is a better term. A union is an organization that is recognized by a statute as a collective bargaining unit. But that, for all intents and purposes, means what a union really is. Anything that deals with wages, job conditions, terms of employment. The growth of militancy in employee groups has grown in the last ten years. Let me talk about the conditions of labor organization activities in the southeastern part of the United States. The southeastern United States is now the target area for labor activity. It has been zeroed in on by Teamsters, by AFSCME, by IBPO. Tennessee happens to be one of the target states right now, particularly of the Teamsters. It was a year ago, and they have the votes coming up, and have had the votes in three major cities. They have some activity in the Tennessee patrol now. They are moving into Texas. They are moving into Mississippi and Arkansas. And they're moving into Florida, but Florida has enough problems with the guy they have down there already. They don't need any more help. Although a more responsive leader would be better. This activity—I think you should be well aware of it, and very concerned. For example, last week, Richmond, Virginia, which is the home, practically, of FOP, voted the FOP out and voted the Teamsters Union in. North Carolina is having the same types of problems. Washington, D.C. is the first major city in the country to vote a contract out of a policeman's association into the IBPO, the International Brotherhood of Police Officers.

There are several attendant questions here that are of a legal nature that I think you should discuss. I say you should be concerned about it, I didn't say you should worry about it. It is in my view the most pressing problem that police administrators have in the United States today. You should start talking about the organized labor movement in the United States today. You should start talking about the organized labor movement in the United States. It's something that's here, and it isn't going to go away. I don't know that you want it to go away. But I'll also say that, in my opinion, you need not have a union. About the best way to get a union is to go out and say you aren't going to have one. I think that through good labor practices you may well have a satisfied employee group, but you have to pay attention to the things that the unions are getting for the troops. And if you don't pay attention to it—for example, in the United States today, in the state police and patrol agencies, there are four agencies whose troopers with three children qualify for food stamps. And, gentlemen, that's demeaning. There are some laws and statutes and court decisions on organizing, particularly in the Southeastern part of the United States. Several of the states still have statutes that say it is illegal for police officers to belong to a labor union. Those statutes are unconstitutional. They have been resolved by North Carolina—Charlotte, North Carolina vs. the FOP and more recently, they have been resolved by the Washington, D. C., IBPO lawsuit where three competing unions went for recognition against a federal, District of Columbia statute that said it was illegal to belong to a labor organization. The Federal District Court of Appeals struck it down in about four paragraphs.

It is a violation of a person's first and second amendment rights under the Constitution to deny him the right to belong to a labor organization. Now one of the best things you can do is flout an unconstitutional statute in the face of an employee group saying, the law says you can't join. Now there's one legal issue in the area of employee organizations that's important and also has not been resolved. It will be resolved very soon, I suspect. That is, may an employee belong to a heterogeneous organization, as opposed to a homogeneous organization? Let me explain that. What I mean is may an employee belong to a labor organization that represents other than police officers? In other words, Harold's union is all police officers. That's all he represents. But if you belong to AFSCME, such as the Baltimore union, they belong to the same trade union—I make the distinction between a trade union and a professional union. But may they belong to that. Now that has not come to a lawsuit yet. Three weeks ago, if I were telling you what I thought the United States

Supreme Court may say they could belong to any union they want. There's one state that has had that at a state court level, and that's Utah. Police officers in the state of Utah may belong to a labor union. They may not belong to a heterogeneous organization, only to that one that represents law enforcement people. Now the reason I say there's a distinction about that—and maybe if we get a chance, I'll answer some of the questions about the Baltimore police strike. Some of the things that have come out of the Baltimore police strike unfortunately aren't in the newspapers yet, and I think they made a mistake by not putting it all out front, but that's my opinion. But, there are things in that police strike that are going to come out that are going to curl all of the hair for those people who have got any yet. At this time I will keep quiet for just a moment, and give Harold some time, and we'll start talking about some of the issues as we go back and forth. If you have a question as we go along, in.

Harold Melnick

Gentlemen, there's one concern I've had for many years, that any big corporation that is successful must have good labor relations, and let me cite you as I see it, the impact, what could happen if there are bad labor relations. First of all, in any corporation today, the vice president of labor relations outside of the president and the controller, has the largest office. Years ago, to find a fellow who handled labor relations in a corporation, you usually had to go down to the basement. Now it's changed, and it's changed because there are reasons. About two years ago I spoke for the IACP in Detroit, the world's largest mass producer of automobiles, the best technology, the best equipment, and probably the best personnel going. Yet if Leonard Woodcock of the United Automobile Workers called a strike, not one automobile would be produced in Detroit. So, I think you can see the impact of bad labor relations. And one of the things we ought to clarify first is that it doesn't matter whether it's a blue flue or a ticketless Tuesday. Any sort of a job action in my eyes is a strike. I may surprise you in many areas, but I'm firmly opposed to police strikes. I'm pleased to say that in June, at the National Symposium in Washington, the words that I used became part of the final conclusions drawn with regard to police strikes, and you'll see when the book is published, it says police strikes are unconscionable. Later on, I'll tell you about the New York City police strike, and how my men didn't work eight hours, but they worked twelve hours, and every boss, including the chief and the deputy chiefs, and the inspectors worked twelve hours.

But let me tell you what good labor-management relations can do for you. There's no doubt about it—a better paid employee, you have a right to demand better productivity. One of the things we've been able to do with regard to the associations, and it's been acknowledged, is that we have raised police salaries all over this nation. Some people might say inflation raised it. Some others might say the law and order issue, but I assure you that nobody in city or country or local government says let's see what we can do for those police officers. Let's see what we can do about raising their salaries. It just doesn't take place. In either type of organization, whether you call us unions or not, we act like unions. Whether we go into a trade union or whether we're a homogeneous and stay in the police area, that's another issue. The point is that you do need an organization representing the employees. And here's where Glen and I differ with regard to Glen's talking in terms of do you need a police association. Several years ago, the federal government told their department and agency heads to go out and see that their employees got into organizations, because simply, you're dealing with a responsible, usually recognized body. And I think if you do that, at least you won't have splinter groups. You won't have people who have grievances and have no way of releasing them. There would be no channel of communication. But if they do have an association, I think you'll discover that when they do come with grievances, and you do get them resolved, you certainly are going to have employees who are thinking better, and certainly who are performing good police service.

Basically whether you be management and I be labor, you have no different goals with regard to police service than I have. When I come into a department and we talk in terms of police service, everybody there is out to do the job, so I don't think we can say that it's really an adversary proceeding between a police officer at the lowest rank and at the highest level. We're really out to do the same kind of service for the people, that is if we're really and truly a dedicated police officer and a professional. I think one of the things you have to recognize is the associations have made it a lot easier for you people out there to do your recruiting. Many people talk in terms of going into the fire service or other services. Really, you have to be competitive, and how are you competitive? You're competitive on the basis of what are you offering with regard to salary, because before a man becomes a police officer, he doesn't get that feeling, but basically, he's looking for a position that's going to go ahead and give him a decent living, a decent salary for his family. I think what you will discover is

that we look for better pensions, we look for earlier retirement, because our profession is not the average. Our people don't go and work 8 to 4 and go home and spend the evening with their families and on Saturdays and Sundays they take off for the lake. Our people work all hours, they work in all kinds of weather, especially in emergencies, and the average individual doesn't. And therefore, we do feel that we should have earlier retirement and better pensions because of the service that we do perform. Nobody denies that we stand between chaos and anarchy. Without law enforcement, without police officers performing, it would be a jungle out there, and even where we have it in the large metropolitan areas, in certain areas, we have jungles, because that's what it amounts to, when you're out there being a police officer, and you're getting shot and killed by people who have never talked to you, and just because you are a police officer and you wear a uniform. One of the things that concerns us is the increased cost of police services. There's no doubt that inflation hits us just as hard as it hits the average civilian, and certainly people have to understand—leaders in county, and municipal areas and the city governments—have to understand that police services are costly. You just can't, as a city manager, say to a group of people who are plumbers or carpenters or something, come in and work for \$2 an hour, if on the outside, they're getting \$6 or \$4 or \$5. They're not going to come in and work for free. There's no such animal who says, well, I'm going to be a dedicated carpenter. But you can have a dedicated police officer, but even though I'm dedicated, I think we have a right to get paid for our services. I think you can be a dedicated police officer, but people have to understand that you still have to go out and make a living for your family and live on a decent standard, because, as we see it, we are dedicated and deserve to get paid for it. Our people come to work all the time, and that's why today, private industry is offering more to police officers with regard to salaries and employment, and they look for them, because they know that no matter what happens, this fellow is coming to work. And our people normally don't watch the clock, but when my wife goes to the A&P to buy some groceries, when she goes by that cash register, she can't say to the fellow, I'm not going to pay you because my husband is a dedicated police officer. She has to pay like anybody else. And I think you have to understand that our people, as they see it, feel they've got to get paid for it. One of the areas is if I were to work for General Electric or Xerox or any of the big corporations, there are fringe benefits. They have stock options, bonuses, and they have the key to the executive washroom. Our people don't get any of the fringe benefits like that, and therefore they don't have self-insured, tax sheltered plans, and

everything they pay is a direct check so that the government takes out its tax, so our people because of this, have to look for higher salaries and higher wages.

I'm really pleased to say that I think the police associations across the nation have more or less raised the standards and the levels of compensation for our police officers. What does bother me is last week I spoke for the IACP in Jefferson City, Missouri, and in getting picked up at the airport by the trooper, we talked on the way in, and we got into the area of overtime, because I flew in late at night and he said he was going off, and I said, gee, I hope I wasn't holding you up, and he said, no I quit later on. And we talked about overtime, and you know, they don't get overtime. Now can you go out and hire anybody in this day and age, and say, well you're not getting overtime. No way. The federal government is now going ahead and saying, hey, you're going to have to pay overtime. But really this bill was put through in Washington by the International Association of Fire Fighters, because fire fighters work in many areas more than 60 hours, and as Glen will tell you, in the year 1975, that bill really starts off with police officers and firemen on a 60 hour per week basis.

Glen Murphy:

Discipline, from my point of view, is one of the most important issues that we have in employee relations. We are now conducting a three-year study on discipline. We have selected 20 police agencies across the United States, and we're reviewing discipline. One of the things—just a small thing, but it's a very important thing if you want to look at the benevolency that we look at in employees. A civil rights investigation is conducted by the FBI against an individual officer, and to my knowledge, there are only three departments in the United States where a command officer even sits with that police officer when the FBI interrogates him about that civil rights violation. Here's a young officer who has a civil rights violation against him. He goes in to be interviewed, and it may be a criminal case, and the command officers in the department don't even have the respect for that officer to sit with him. Now, any employee organization is going to come in and say, immediately, we'll make a \$50,000 a year attorney available to you, that will be present whenever you're interviewed by a command staff in your department. If the command staff doesn't have that kind of attitude toward his people, what do you expect him to do, but to turn elsewhere. The other thing on this lack of preparedness, is the attorneys that we generally have representing the police department.

Some of them are good, but most of them have no knowledge—they'd be lucky if they had three hours of labor relations ten or fifteen years ago in law school and haven't researched a case in labor law since. And they come up against some of Harold Melnik's attorneys in labor law, and they turn them every way but loose. They're not prepared. They don't know what the employee group is all about and they don't know to handle it. In the discipline area, the other thing that people look at is this right to counsel, if you will. There is no constitutional right to counsel for a police officer in a disciplinary hearing. There's all kinds of case law on that. But the other issue is, should there be right to counsel? Is there anything wrong—and I'm not giving you the answer, I'm raising the question—but does an officer—and I'm very serious about this civil rights issue. Here's a young officer that has a charge like that brought against him, and subsequently a lawsuit is filed against him, that may be for hundreds of thousands of dollars, and you as police administrators can turn that lawsuit over to the attorney general and walk away and you can forget it. And on top of it, you're indemnified. But that individual police officer is not. And I submit to you, gentlemen, that a young police officer going home at night, the night he gets a quarter of a million dollar lawsuit against him, and he tells his young wife who's pregnant, "you know, dear, I just got a \$250,000 lawsuit filed against me." I wouldn't want to be around to try to soothe her that night, because she doesn't understand what it's all about and neither does he. And I think this is an issue—this whole disciplinary issue—and by the way, there were over 7,000 lawsuits filed against police officers in 1971, and in those cases, only 10 percent of them were represented—those individual officers were represented by the state. Don't come around and tell me the state took care of the case. I'll tell you how well the state is taking care of the case. In a majority of the cases, when they settle the cases in police liability, they sign for the immunity of the command officer, and the attorneys did not consider and did not get a stipulation to the immunity of the individual officer, so that most of those officers, and then the other thing that the attorneys are going good for you—for nuisance value, they're settling for \$500 and \$600, maybe. Without the immunity given to the individual officer who was involved, and he is still subject to the lawsuit, and your consent decree is evidence against that officer of his liability. This is what's happening, and we're not taking care of these officers in the civil litigation. Another area that we're not prepared in across the country is demands. Employees come in and they meet with the chief of police or his representative and they have a list of demands. The other interesting thing that we find is that management does not have a list of

demands in return. Harold doesn't expect to come in and sit down at the bargaining table—even an informal bargaining table. He doesn't expect to come in here, although he historically has in New York, with a list of demands, and the city doesn't ask anything in return. That's changing in New York, and I think Harold will talk about it. But generally, in organizations such as yours who are first being met with employee organizations, do not realize that it's a two way street. And, for God's sake, make sure that a representative—in my view, the Chief of Police should not sit there. It should be his representative, because the hostility should not be vented against the chief. It should be vested against his immediate subordinate within whom he has great confidence. Another case in point, if, for example, you're in Wisconsin, and an officer comes in and sets a bunch of cards on your desk, and if the chief of police picks it up, he has now recognized that as a union if there are 50 percent of the cards of his department there. And I submit to you, gentlemen, that you ought to know within your states what the statute says about union representatives. And by the way, if you're one of those states that now has a statute that says everybody may belong to a union, except the state police, that's an unconstitutional provision against the state police. They do have the right to belong to a union.

Just before we closed, I was talking a little bit about that benevolency, and as I left, one of the guys came up to me and he said, well, you know, our city, or our state buys insurance for the guys, so that takes care of their problem. That's exactly what I mean when I'm talking about benevolency. Here it is—the guy can have a judgment against him, and the insurance company will pay for it. What you need is a lawyer to go out and defend the guy.

Harold Melnick:

Let me go back a moment with regard to making demands. One of the things we discovered in our last session with regard to contract negotiations is that when we came in with a list of demands that we were looking for, the city, in conjunction with and in cooperation with the department, came back with a list of their demands. I think you have a right to get and make demands, and one of the aspects of making demands was that there was going to be more productivity coming out of our people. When you start to pay the salaries that we are getting and that we're seeking, and that are being received in some of the areas, why you have a right to go ahead and make demands. I have no qualms about saying to my people, if you're getting \$21,000 with regard to base pay, without overtime, then you have to produce. I think that's one of the areas that you people should be doing your homework in, so that when you come in, you're as fully prepared as we are.

This may sound like gilding the lily, coming from an employee representative, but I think when it goes over the bargaining table, there has to be that kind of negotiation on a more or less comparable basis, because in the long run, if there isn't, the police service itself is the one who suffers, and as I said before, whether you're the chief or the police officer on the beat, your major concern is police service and the dedication you have to it. I think this is one of the areas that you people can certainly, as Glen says, start to make demands. But, likewise, one of the areas that concerns us, and I'll just briefly go into it because normally we have more time, is with regard to the pensions, and when I talked in terms before of recruiting and how you can better recruit because of pensions, I think you have to understand that pensions are costly, but one of the areas that I find over this nation, is that nobody talks in the police area of funding pensions and investments. And just today I discovered when I was talking to one of the people here, that his pension fund was getting 4 percent. I can tell you right now that our association alone just got some money at 11 3/4 percent. You can go to these insurance carriers for your pension funds and discover that Prudential will offer you 8 percent for a 10 year basis. And I assure you that isn't a lot. You have to recognize the value that you should be advising your people that police pension funds are costly, and they're going to cost you more. We are making a push to have escalator clauses. I can't see why a man who is a police officer for 20 or 25 years comes out and discovers that double digit inflation, after six or seven years, has so eroded his pension that he's receiving the same amount as if he had gone on welfare. I think it's an injustice to our people, and this is one of the areas that the employee associations throughout the country are going to be pushing. True pensions, a pension tied to the active man's salary. In other words, we're seeking 50 percent of the salary—to retire on 50 percent, so that you'll always be covered and you'll always have the kind of purchasing power so that you don't wind up on inflation. One of the positions we've taken throughout the years in the police association area is that we don't consider pensions bonuses. Pensions to us are really deferred compensation and they should be treated as such, and I think you're going to see great demands along those lines, because if you go to the ICPA they're talking in terms of, they've hired one of the largest stockbrokerage outfits around the nation to be talking in terms of investments. And I think you people have that kind of an area because, actually it's tied to your salaries, pensions, etc., are tied to you.

I have no qualms about telling you that Glenn and I talked before the break about, because of the time I won't go into the fire parity situation. But I

did start the fire parity situation in New York and raised our salaries so high that it just blew the salaries of the deputy chiefs and the chief, the five or six chiefs and the police commissioner that the lower ranks were going to make just as much as they were so they had to raise theirs, and it's certainly been a boost. In the City of New York, since 1896, the fire lieutenant, which was their first promotion, received far more money than my sergeant, who was the police's first promotion. And if you examine the jobs with regard to police and fire you'll discover that the police officer's job is far more demanding and he should be paid higher. And we did go ahead and say to the City of New York, through two fact-findings, that we wanted to get paid as much as a fire lieutenant and they denied us this. At the time the fire lieutenant was getting 15% more. We, fortunately, went through the two fact-findings and we beat them both times, in which each of our sergeants got \$3,500 extra, the lieutenants got about \$4,000, the captains got about \$5,000, right up the line, that the deputy chiefs and chiefs got about \$7,500 to \$8,000 each time, in addition to their regular pay. And what actually happened was that the city made another error and we wound up getting it three times, and everybody really moved to the bank quite often. But the point is, that it did raise the salaries so high that it made, when a man is promoted to sergeant, he is \$3,360 above a patrolman. So it's worthwhile to get promoted, and you'd be amazed how everybody at patrolman's rank goes out and tries to become a sergeant. It's an incentive there, and there's no question about inflation, but I think one of the best morale boosters in the department is with regard to breaking the parity between police and fire. We always say that police and fire, this marriage wasn't consummated in heaven. It's been a fraud, as we see it, perpetrated on police officers. There's no doubt about it, when you compare jobs, and we did it, we spent about \$225,000 in legal fees over four years, why, you'll recognize that there's no comparison. I don't want to denigrate the fire people, because I think it takes a lot, but I want you to know that the greatest morale booster would be the breaking of parity. And when Pat Murphy as Commissioner in New York, said to the Patrolmen's Benevolent Association, "You only got half a loaf," he was referring to the fact that they haven't broken parity. I'm happy to say that the sergeants, lieutenants, captains, the deputies, and the rest have broken that kind of situation and were successful. But the point I'm making is that you go ahead—and one of the things that the fire people have said in talking in terms of hazards, and I want you to know that pay scales are not based on hazards. Because the kid in Vietnam was getting \$50 or \$100 a month, and the fellow who cleans the windows on the 98th floor of the Empire State Building hanging by a thin strap gets 1/10

the amount of money the fellow inside gets, the executive inside with his feet on the desk, smoking a big cigar, and the only way he could get killed is to be struck by lightning. So I think you can recognize, as we see it, that it's dealing with people as our police officers do. When my officer out in the street pulls that trigger and takes a man's life, under normal conditions, the United States Supreme Court might take two years to decide that very question. So I think the people have to get paid for it.

One of the things that I learned last year in San Antonio when Clarence Kelly came up and talked, was that he did say that for 25 years in the law enforcement area in regard to police there haven't been many innovative changes. And I think you have to recognize his statement as being true and being of fact. When people talk in terms of our association, we are here to stay. I think it is recognized that unions are here and they will continue. One of the areas is that I think that there is a great feeling that we want to set policy. And a proper union—and I don't want to set policy in the City of New York, that's your job. You people set policy. But likewise we don't want to take away management prerogatives. But I think you have to recognize the value of our input. Let me tell you why I say the value of our input. One of the things is this. We have that kind of credibility. And I say we have it because we have been elected by the people. We are representatives, and we do represent them and they recognize it. When an order comes down from our department, it's on a cold piece of paper. The fellow doesn't know what's behind it. It's the old fear of the unknown. They fear everything they don't understand. They fear change like everybody else fears change. And therefore, when an order comes down, without us having that kind of knowledge of it, it's always a problem. And there's no question about it that you can receive the value of good labor-management relations. One is this, as Glenn said before. It has to be a two way street. I pay the price for the kind of feeling I have. Every five or six weeks I have lunch with the commissioner. We kick things around. I get an idea of what he's looking for, and he gets an idea of the feeling of my people and what we're seeking, and how we can work out and resolve some problems. The fact that he affords me that kind of recognition, the fact that if I want to talk with him, I have an open door. And even if I wait outside his office for a half hour or an hour while he has a conference, the fact that I tell his secretary I want to get back in at two o'clock, he says, "O.K., he'll be free then." The fact that we have that kind of communication and dialogue is a benefit to me because my people are aware of it. They know that then some of their grievances are being heard. But likewise, I pay that kind of rights to the recognition. The price of crime is being responsible. And I think that if you do that, if you go back and call in those representatives of the employees, you're

going to discover that they will cooperate. And it's that kind of cooperation that will certainly engender you good will and give you a better idea of what's going on. I don't tell this department what to do in New York. But you can bet they listen to what you have to say, because they're getting some of that peer input. Something that some of our people are afraid to say to the commanding officer of the precinct or their areas. Because they're not going to get it back to him. But we are.

One of the things that you have to be concerned about—and maybe I ought to talk about it now—is the fellow who surrounds you and tells you everything is going fine. As Glenn told you about Tucson, Arizona, when I was with Glenn at the time, we had a couple of gents tell us "Why should I even be there, and why should I be talking about you?" And two days later, they were organized and had been going on. Yet you could never have convinced those chiefs and the assistant chief and deputy chief that there was even union activity. Because the people surrounding them told them what they wanted to hear. And that's why they woke up Glenn at three o'clock in the morning to say, "Glenn, we got unions tomorrow, what do we do?" And I think this is the kind of situation that you have to avoid.

Let me give you an idea of just what goes on and how we can show some of our input on one of these things. Recently in New York they came to me and said, "we want to put these sergeant's chauffeurs out. Our people ride two in the car. Actually in New York we need five in the car. But we hardly can get five a night in certain areas. But we have, two and sergeant's have chauffers. And they came and they said they wanted to put probationary patrolmen in as chauffers for one to two years so the sergeants can train them. While I recognize the value that the sergeants should be training them, aside from the police academy they go through, I also recognize that we have hot summers. That in five minutes you could have in a minority area five thousand people on that sidewalk, pounding away on our radio cars, turning them over and setting fire to our cars and throwing torpedoes. So I think the chauffeur has to be an experienced man, a man who will know what he can do when he assists the sergeant. When I pointed that out to the department, the commissioner, in his wisdom, hadn't been aware of this change, automatically cancelled that order. So I think that's the kind of input we can have. It took me five years to convince the police department in the City of New York that the commissioner should send out a letter, which they have today, The Open Door Letter, which goes directly from the commissioner to his people. And it took me five years to convince the commissioner to go ahead and send out the ordinary 8 x 10 letter to the men advising them on some of his policies and practices.

I got the greatest shock when I was talking in Arizona about three years ago when one of the chiefs or deputy chiefs or assistant chiefs said to me, "Well I know I'm doing a good job when the chief doesn't call me in to bawl me out." That's a heck of a way to find out you're doing a good job. Because I think that if you've got a man who's performing, you let him know it, and if he does a particular job at a specific time, you say to him, "Hey, Pat, you handled that job in a real good way and I'm really happy about it." Because that's the incentive motive. And I think this is one of the areas we should be looking towards more on a positive labor relations, not to have a man as high as this man was saying to me that if he doesn't get bawled out he knows he's doing a good job.

Let me tell you what you get when you don't cooperate with responsible leadership. You wind up with the militants. And I think this is where the problem comes in. The back room lawyer—who advises them with their grievances that they ought to get out and act militant, that you don't have and you don't recognize responsible leadership.

As Glenn will tell you, the major strikes in the police area throughout the United States, except in the Baltimore area, in the last five years at least, has been on recognition. Police strikes are prevalent out in the midwest just to get recognition. And this is tragic in this day and age just to have a police strike. And for the benefit of the people who are here, I'm a firm believer that police strikes are unconscionable. And there shouldn't be any, and I'll go into that when we talk about strikes later. Let me give you an idea, the militancy of the police and public employees. On June 24, 1971, Mayor John Lindsay said in New York, "The growing militancy of municipal workers across the country has become a part of the painful mix of problems that we call the urban crisis. It has left cities temporarily without teachers to teach, policemen to fight crime, and sanitation men to clean streets. And that has permanently changed the nature of labor-city relations. Militancy means that no longer can a labor leader sign an agreement on his own without the assurance that his members will automatically ratify the settlement. No labor leader can bargain in secret, or negotiate with complacency." He also talked in terms of management demands in 1971, and they followed up with it. One of the things you do with regard to police leadership you can go right ahead and make heroes out of them. Because the second you go ahead and over-react

you're going to make a hero out of them. Let me cite a couple of examples of what we consider making heroes. One of the things is—and Glenn will tell you about Eddie Keenan's arrest in Chicago—in the City of New York, if you go to jail as a union leader, it's a badge of honor. It guarantees your reelection. And one of the big things with regards to this is that you're going to discover that in the City of New York we had a big problem with a fight between two municipal leaders, Al Shankar of the teachers and John deLuri. So I think you can recognize over-reaction.

Harold made a couple of points on over-reaction, and I think one of the things that I was alluding to earlier—and by the way for the benefit of those who have joined us certainly feel free to ask any questions at any time and interrupt us. We talk fast but we'll recognize any question on any issue in labor-management.

Ed, I'd like to ask Harold why he and John Flood are so much on opposite ends of the spectrum. They're both after the same thing, and it looks like they take a real different approach to this thing.

For the benefit of those of you who have not heard, John Flood is the President of the Union's Council in the Chicago area, the Cook County, Tri-county unions, and he is very militant on strikes, recognition strikes. And that's a considerable difference between Harold. Go ahead.

John Flood, let me say when I first started out for the IACP about three and a half years ago or so, the attitude by a lot of police association leaders was strike. That's all you heard because it was a popular situation. I venture to say today, having talked to most of the police association leaders, they don't talk in terms of strike. And, just to give you an idea of what they do talk about, they do talk in terms of, let's say, collective bargaining, final and binding, arbitration, fact-finding. Unfortunately, in the Midwest, John Flood has a problem of recognition. And I think it's tragic, as I said before that John has to strike for recognition. John Flood and I agree and we've a big difference. Only the other day I spoke out in Evanston, Illinois, to Northwestern University with John, on the same panel. I think we agreed in principle on other things. I think that it's tragic that he has to strike for recognition, but you'll find that we do talk alike and we do think alike with regard to employee association.

One thing I haven't heard is what is the responsibility of the union, by whatever name it's called, to see that the people it represents are

performing the kind of public service they should be performing. Example: Baltimore, which is more important, providing public protection for the people, or trying to get a 10 percent pay raise or an 8 percent pay raise. It seems to me that no one has ever defined that role for a union.

As I told you earlier in the program, let me sum it up this way so that I'll just relate to the New York City patrolmen's strike. The one and only, I hope. The attitude taken by our people, and I'm going to be quite frank. I had several calls from high ranks saying that we ought to support the patrolmen. I believe and firmly believe that there aren't enough police on the streets. I think we need more police and not less. I don't want to take out my frustrations on the police administration by striking. I assure you that I will get at that police administration or city administration through other means. I'm a firm believer in collective bargaining, but I also believe that if they put me through saturation stage, that we go ahead and take action. But like I said, I'm against strikes. Because nobody wins from a police strike. There's no you lose and I lose. And to get on a little, I'll tell you about being expendable in a couple of minutes, with regard to this which I plan to go into next. But, let me tell you why I say nobody wins in a strike. Because after a strike is over, the public are against the police, and they're against that chief or that commissioner, whoever runs that department.

Glen Murphy:

I'd like to respond to this question, the difference between Harold and John, in response to Bill's question on what is the responsibility of a responsible union representative, when we talk about the issue of strikes. The strike that, the patrolmen's strike in New York City and the Baltimore strike now are not on recognition. For purposes of everybody here that might not know what recognition strikes are, there is no responsibility on the part of the union representative, if you will, in a recognition strike, because he doesn't represent the union. The policemen are not represented at that time. So there isn't a person of the union that can be held accountable. Recognition strikes are solely for the purpose of the management recognizing that as collective bargaining. That's what it's all about. Now, there's a lot of machinery to go through by which you may determine with them at all. In one of them that we've used in this country historically is the vote. And I suspect that, really, maybe heresy for somebody who represents management, which I do, and I don't believe that you need a union, as I've spoken before, but when you get to that point where it comes to a vote, then you'd better take the vote. And you better find out how it's going to

go, because management is equally to blame for recognition strikes. Now, that's a different issue than the Baltimore strike and the strike that the PBA had in New York City. And I know, of personal knowledge, that Harold told some people, he told his people—and you ought to see this guy run the meeting, his meeting, you know. If these chiefs ran their departments the way he runs his, they'd run them all out. But what he told the people was that you will go out on the street, you will not strike. And if management is smart and asks for it, Bill, and this is what I said, management being prepared, instead of sitting back until they get hit in the mouth, you may in a contract having a maintenance of service clause. And if the maintenance of service is not provided, even if they do have a job option, if that maintenance of service clause is not heeded, a federal judge can come down on them for unfair labor practices. And these are the types of things, but you have got to take the two strikes and keep them in perspective.

Now let me talk about making heroes on these recognition strikes. We talked about Andy Kiernan, the President of ICPA, International Conference of Police Associations, was in Chicago some time ago. And they were having a meeting. The superintendent of police in Chicago didn't want these people, who represent the unions, to be in his community. Obviously. And so for so minor an offense—and there was a minor offense. It was a pedestrian offense, Eddie Kiernan was arrested—and those of you who've never seen Eddie Kiernan, he's bigger than Pat Speer. And the photograph was taken of Eddie Kiernan, who was a guy who would like to be the president of a national union, sitting in one of Chicago's paddy wagons, with an American flag folded in his arms. Now that photograph has been in every trade magazine in the United States, it would give Eddie Kiernan more votes from patrolmen than Patch Halimine. Go to Milwaukee, the recognition strike there. Bob Klineschmidt, now one of the real militant leaders in labor relations in the United States. Also a member of ICPA. At 4:30 in the morning on a traffic warrant, a minor traffic, three parking violations is actually what it was for, as I remember. It was three parking violations, the chief of police got a bench warrant and executed it at 4:30 in the morning when Bob Klineschmidt was home and literally in bed with his wife, the police officers took him out and took him downtown and booked him and arrested him and Milwaukee went out on strike a few days later, when Klineschmidt's photograph was in the newspaper. He is the only guy that I know of that got a hundred, other than Harold who nobody runs against, he got a hundred percent of the votes the next day. This is making heroes out of people, and this is how you create a union.

A couple of things Harold mentioned earlier that I want to talk about, and I'm glad the field commanders are here because much of the problems that I mentioned earlier, the survey that we've been doing in the United States of what are the symptoms when a union is prevalent, and I'll also mention for the benefit of those of you who were not here, the target area for the Teamsters and the ASCME, and IBPO now is in the southeastern United States. Tennessee is one of them. Texas is one of them. Louisiana is one, Mississippi is one. And you are target areas now. And I mentioned that Richmond, Virginia, for example, just voted out the FOP and voted in the Teamsters Union, as did Fairfax County, Virginia, which are large departments. IBPO voted out policemen's association and voted in the IBPO, and the Washington, D.C., the first major city in the United States to be organized since World War II, which is a phenomena. But Harold mentioned some of the things about how they may be able to transmit orders that come down from topside better than frequently they come down from the department, and that's true. I hate to admit it's true, but I even remember when I was back on the department how many times the lieutenant would stand at roll call, and would stand there and say, "Well, headquarters sent down another brainstorm. Or command officers, as I had an old geezer of mine say, he was the head of the highway patrol up in Montana, and I had in class when I was a student, said, "When the command officers don't want to stand up and earn their pay. Every nickle you make above a patrolman is earning your pay, and the guy that doesn't want to do it, by being part of management, if he is management." But he's standing up, and that order is now theirs, and they explain it to the troops. And many of us remember that when we were out on the street. And this is why Harold has the advantage of being able to explain orders because command officers aren't doing it. And I mentioned the discipline thing.

Another thing that I'd like to mention that we're not knowledgeable in, where we're not prepared to meet this labor-management problem, is, you hear Harold standing here talking about insurance, benefits, the various types of fringe benefits, a program against stock shares, option programs, and we don't have anybody, in the United States—not anybody—we don't have many in the United States who are qualified to sit and talk to our own management people about these types of issues. We're just like the hog being led down into the slaughter house when we go over to talk to the comptroller at the state or in the city, and he gives us all this gobbedlygook about finances, when we haven't prepared somebody in our own shop to talk about these issues. And that's another case in which we're not prepared. And I think it's something which should be corrected.

I think we should talk for a moment about some of the things that are involved in agreements that you should anticipate, agreements with labor organizations, employee organizations, or whatever you want to talk about. And I mentioned earlier that the chief should certainly have somebody present at the negotiations, so that they don't give away the ship, before the chief or commissioner has an opportunity to be involved. One of the things that every department should have now, if you've got a union or if you don't have one, and especially in your state police agencies there should be a firm agreement between the governor and the head of the state police agency of what are the agreements, what are the guidelines that you have when you're dealing with labor-management relationships. And I daresay that most of you don't have that. What are the guidelines that you have in the control of discipline matters. And I mentioned earlier some of the problems that we have in the discipline area which is one of the most severe problems in the United States, and in particular in state police agencies. And another issue that I didn't mention that we're finding in this disciplinary study that all of you better be conscious of is the fact of disparity in discipline. We have gone in so far into seven agencies in the United States looking into discipline, and the disparity of discipline between command officers, the supervisors, and patrol level, is just atrocious. Some of the activity that is participated in by patrol officers, that a supervisor evidently, because no discipline was taken against the supervisor, is condoned on the part of the supervisor. Or an act of omission or commission on the part of the supervisor is all right. Discipline will not be taken against him. We went into one department where everybody in the department knew the assistant chief of police had taken a scout car out, picked up a girlfriend, got drunk, and smashed it up. And that assistant chief of police—and you know, like everybody claimed, "Well, nobody knows that he did it, you know, it happened in another country." Baloney, they didn't know it happened. And everybody was waiting to see what happened. What happened to that guy? Well, the word never got out as to what happened to him. And I'll tell you what actually happened to him. He got suspended three days. But that's all that happened. But nobody even knew he was disciplined. The disparity of discipline in law enforcement agencies is going to get you all in trouble. And it's coming. And guys like Harold are going to lift that bushel up and show it to you. And I think, probably it's about time.

Some of the other areas that you should be looking forward to and preparing yourself for. This wage act is one of the things that you should have.

And if you have these types of agreements with the governor—let me reverse myself here for a moment. The other thing that every agency needs, is a labor-management committee, who, when you have collective bargaining, would be your collective bargaining team. Who would be dealing with the personnel issues. And that team has got to be made up of people from personnel who are personnel specialists. It has to be made up of field commanders who are sitting here and the personnel people aren't, but they should be there. Field commanders, and the command staff from the superintendent's or the commissioner's office, and some representative from the governor's office or whoever at the level is involved. And these are some of the things that they should be considering. Control of disciplinary matters, what are the employees rights, and if you have an employee organization, what is your relationship with the employee organization. Let me tell you what happened in Minnesota last December. A grievance on a Minneapolis-St. Paul was taken to labor relations board of the State of Minnesota over where did sergeants belong, by unit determination. By unit determination, that is the group who you are going to collectively bargain with. And by a unanimous decision of the labor relations board of the State of Minnesota, sergeants were put into the unit determination. In other words, they were not part of management. You know why they weren't part of management? The first reason they weren't part of management, because the lawyers that took that case up should have been fired. The preparation by those departments of taking that labor-management action up to the labor relations board was one of the most atrociously prepared things you could ever imagine. The second that was involved is nobody had sat around and thought to themselves where they belonged. Where does the sergeant belong? Is he part of management or is he part of labor? You'd better be thinking about it. Do you want him with the patrolmen, or do you want him in separate agencies. Obviously. Harold wants him separately. Which I think he should be, and particularly in state police agencies. But this is what happened in Minnesota. They said you didn't train him like a sergeant, he didn't look like one, as management. For example, the color of his shirt was different. If you are a captain or above, you wear a white shirt. If you are a sergeant, you wear a grey shirt. That's very common in municipal law enforcement agencies. The color of his badge was different. The benefits that he derived were different. Did he have the authority, and was it necessary that he be involved in the disciplinary process? In other words, if one of the people who worked for him were in trouble, did he, was he personally involved in the disciplinary action?

Some of the things, other things that you should be looking at, or this group should be looking at, is there are things that would come up in the first contract, if you have a collective bargaining contract, the things that would come up first is control of discipline, which is an issue. Grievances, which I alluded to earlier, bulletin boards and meeting places are something that would be of import. Hours of work, leaves of absence, these types of things would be, promotional assistance, strikes, you should certainly be looking for a maintenance of service, transfers, vacations, overtime, and moonlighting. And one of the other things, and important thing—and I'll give it back to Harold for a few minutes—that you should be looking at any time you deal, even on an informal basis, you should be looking for the proviso of who belongs to the employee group you're talking about. One of the things I alluded to earlier was an ambivalence. And one of the reasons that there is an ambivalence is because, for example, on the FOP, they're losing out, is because everybody in the organization belongs. It's not a trooper's organization anymore. The chief of police in most instances has belonged to the FOP. And as a consequence, the young guys are coming along and they say, "Hey, this isn't a trooper's organization." It's dominated by the command officers and/or the retired officers, and that's why they lost, the retired officers controlled in Washington, D. C., and that's why they lost there. So you should be looking at who belongs to these organizations, you should be looking at their age. You can tell by the age group of your patrol force what their demands are going to be, or should be able to. If you have a split, a younger group and an older group within your patrol force, your level of execution, you may anticipate some difficulties in that group among themselves. But you should be prepared and analyze these so you know what these demands are going to be. The other thing that you should consider very carefully, it's going to come about, or will attempt to come about if you get into a collective bargaining situation is a past practices clause. And a past practices clause, in my mind, is one of the most dangerous things you can submit yourself to. And many people stumble into it, because they don't know what it is. And it can have lots of other names to it. You know, all sorts of language around it to cover it up from what it really is. But a past practices clause means that anything that you have done in the past is a practice, written or unwritten, is subject to collective bargaining in the terms of this contract. That's generally what it means. And you have to be very careful with it. Harold, go ahead.

The Chief said I have fifteen minutes, so I'm going to go fast. One is, as Glenn said, if you have a bad contract, you're going to have to live with it. I think that's the key, because, once the men get ideas they're getting something, I think that if you start to renegotiate you start to have problems.

But let me talk a moment, and go back to the strike issue in New York City. I had a few captains call me who felt they wanted to support the patrolmen. And I informed them that not only were they going to work eight hours, they were going to work twelve, otherwise we couldn't get anywhere in collective bargaining. And why did they want to do it. Normally, police officers don't want to strike. It's inherent in their principals, and it's congenital, that anytime they talk in terms of strike, it means radical, and therefore, our people have never been in any, really, any form of favoring the radicals. They normally don't want to strike. But why do these captains call? Because it goes to one of the crux of one of the problems that you're going to have. And that's the supervisor who wants to go out of the department or the agency and be a good guy after he's served his twenty or twenty-five years. And believe you me, that's really where it comes in. Sometimes some of these people haven't been taken into the management team. And they get the idea that if they're going to be close to the lowest rank or the lower ranks, everybody's going to say they're a good guy. Well, that fellow serves a disservice to you and he serves a disservice to us, because he isn't the fellow who's going to perform. He's the fellow who is not going to see that they perform, and I think that you're going to get lax discipline. And lax discipline leads to corruption, and this is one of the areas where a man really has to be on the ball, when you get with the fine point between too positive and too negative discipline and corruption. Because if you are too lax, you're going to go and have the real problems that we face. There's a fine line between discipline and corruption. And one of our concerns is that they talk in terms of what the union should do, what the association should do with regard to corruption. And let me tell you that one of the things is that, basically, it's a command responsibility. If there are people who think that departments are corrupt only in the largest etc., they're kidding themselves. And all of a sudden you wake up one morning and you have the kind of headlines and publicity that we've faced in the City of New York. I often get asked about Serpico, the picture, and it's about the furthest from the truth as it exists today. But let me tell you that at times corruption has been institutionalized. When you get political situations where a mayor of a city says in the minority areas you can't stop the numbers game or policy or however you want to refer to it, or we'll have racial riots.

Or, will you get the mayor of the city to say, "Listen we are not really enforcing the gambling laws and bookmaking." You have problems, and if you haven't faced it, why, you've been fortunate. One of the areas, who contributes to political campaigns? It usually comes from various activities that are on the other side of the law, and I think you have to recognize it. We could wipe bookmaking in any city in this nation, or any county very simply by passing a law that makes the bettor as guilty as the bookmaker. People will not go to jail for a few years for placing a bet. You'll soon discover that they won't be placing those bets, if they knew that there was a possibility of getting incarcerated. So I think if we really want to wipe out bookmaking and policy we could really go down the line and do a good job. But one of the things is that it's really a command responsibility. When I say it, we're not happy as organizations.

We were in Washington a few weeks ago and some of the management people and the city people said you people have to get out there. Well, we do. I have no qualms about getting on radio and television and have done it on many occasions. And had newspaper interviews in which I talked against corruption. I talk to every new class before they're promoted to sergeant, and I advise them that if they take five or ten or twenty or a hundred or a thousand dollars, they're placing their families' picture in the newspaper, and their kids, when they go to school, are going to be ridiculed and what have you. I think this is an obligation we have, but the fact is that this is one of the areas where it doesn't, you can't only talk about it, there has to be action. And the supervisor out there, who's not advising you of these things, or the supervisor who feels that he has to be a good guy, he's the fellow who's going to cause that problem. That you wake up one morning and you have a job action, because he hasn't fully kept you informed. One of the things Pat Murphy did when he came in after about a year, and certainly after the police strike, was that he recognized that you have to get grievances resolved. The fellow who has a grievance is not performing properly. All that's on his mind is how he is going to get that grievance resolved, or if he's on trial and he's being disciplined, when is the decision going to come down. If you let it lag or something, it's going to fester. That grievance festers, and the fellow who has a disciplinary sanction coming his way is a fellow who is not going to perform, because, as I say, that's all that's on his mind. One of the things that he recognized immediately was that he had to put some people out into the field. So he went ahead and took a captain in every borough. We have five boroughs, and he made him a borough personnel officer. He would go out into the field and when the men had a grievance, they would talk to the borough personnel officer. In ways, usurping some of our powers and all. But he felt that if he resolved it, he got the credit for it.

Recognizing that some of the people in the lower ranks would not talk to the captains, he then went ahead and put sergeants and lieutenants, right out in the headquarters unit and said to them, "You go ahead and resolve the association's problems that they bring to you." Because the fellow who is fearful about having someone react to him, or getting punished because he made a complaint, is not going to the department people, he is going to the association. And when a man says to us, "I have a grievance but I don't want to have my name involved because I'm fearful of retribution," we take it up in that light and it gets presented in that light. And therefore, these lieutenants handle just the grievances that the associations give them. Because they know when that grievance is resolved, the man is now starting to perform better. The man will then recognize that he has no problem, or he is fearful of getting hit on the head, as we say, and therefore, he is in a better position. One of the areas we've learned, that Commissioner Codd, who's the present police commissioner, came out with different types of penalties, flexible penalties, as he called it. They rebate, they go ahead and suspend and they put people on probation. Why is he doing it? Because discipline should really be positive. You know, recently we got called in. We have sick report that's as far as our people are concerned that from the first day they are sick and if they've been sick for two years, they still get a full check. There's no penalty with regard to sickness to ours, but we have surgeons who check our people over to see that they are sick. And I had one of the chiefs come to me and say, "We ought to penalize the fellow who's been off excessively sick." When it comes time with regard to vacations, and we pick by seniority, he said we ought to drop the fellow who's been sick to the bottom of the list. Well, I said to him, "Chief, you're taking the wrong attitude. You're taking a negative attitude. Let's reward the fellow who doesn't get sick. Let's give him a day or two off because he's coming in every day." And if you have a fellow who's sick and he shouldn't be sick as much as he is, why, charge him with malingering. And fine him and send him through the punishment. Let's not go ahead and punish just him. Let's think in terms of rewarding those people who really are performing for the department. I think also that you have to recognize, of going into some of the minority areas. And I really don't know basically whether you have those kind of problems.

I think it's pretty sad when we have 10 or 12 people killed each year, and six or seven of those people are killed because someone fired from a housing project two blocks away at some of our people, or they firebomb our cars. They've never talked to the individual, yet they shoot them down, whether they are black or white police officers. Because we, the chiefs,

and the commissioners haven't gone into the minority areas and said to them that your people didn't cause your problem. They didn't cause your bad housing, or rat-infested housing. They didn't cause your poverty or economic conditions. Even though we stand as the establishment's representative, why should my police officers be killed because of a political situation? And unfortunately, they are killed just because they wear that uniform. And I think it's a responsibility of chiefs and commissioners to get out there and talk to these people in black and Hispanic areas and to stop killing some of our people, because, really, we're paying quite a price.

One of the things is with regard to racial double standards and minority employment. We want more blacks and Hispanics in our department. We have maybe 4 or 5 percent, when the population is approximately 31 percent. The point is, we want them in the front door, not in the back door. And we think we can help you people because basically you can't come to me and say that you want to professionalize the police service, and yet lower standards. We are taking people in who have records, who have a record that they committed, of course, at an early age. But to tell me in certain areas committing rape is a regular situation because they are minority people is absolutely wrong. We did go into court on model cities against the department and city administration to hold back minority recruitment, where you tell me you're going to give two exams, and make that individual a police officer. Well, if instead of two exams all I want him to pass is the same exam as the white people who apply. And when I find out there are questions such as who is Babe Ruth, whether he's a baseball player or football player, and somebody answers he's a candy bar, I think you have to recognize what we face. And I think that if you go ahead and follow a policy of making sure that we're not lowering the profession, because let's not kid ourselves. One of the areas that we're concerned about and even discipline is that we expect to get treated like employees with all our rights. When I came into the police department over thirty years ago, I swore to uphold the Constitution of the United States and the State of New York, but I never swore away my civil rights. And I think we have rights, even though we have been in the department and our people are. And one of the things we consider is this. That people should be treated on an equal basis. We don't want you to lower standards in order to get minority recruitment. We think it's wrong. We want to raise it to a profession where it belongs.

Fritz Dohman, who is one of the executive assistant chiefs in Dallas, Texas, is going to be our next speaker. He's had twenty years of police service; he's come up through the ranks. He's been a deputy chief of traffic, field patrol, and his present assignment is the Deputy Chief of Traffic. He's a native of Dallas, holds a B.S. degree in police science from Sam Houston State University. He's a graduate of the Southwestern Police Academy of SMU. So, we're going to hear about Texas. The way they do it in Texas should be good. Fritz, we're glad to have you in Tennessee.

James F. Dahman, Executive Assistant Chief, Dallas Police Department

A lot of us felt that maybe we were putting a woman out there to get killed or raped, just to prove our point. And in conscience, we didn't want to think that was true. But, with the question brought up to us, are you trying to prove you can't use women by getting one killed? We didn't want this. We had regular meetings and we also had a group of three sergeants who are neutral; not involved in the program at all, who evaluated the work records, the complaints, the call sheets, the beefs made, and the quality of tickets. And they made their evaluation of how this was working. Because there was always the fear of the people in it saying it's working good, for fear it would reflect on them if it isn't. We also checked with communications to make sure that they weren't cutting calls, where women got the dog bites and the thefts, but not the disturbances and the more important calls. Additionally, SMU, on their own, which is the local university in Dallas, did a follow-up, and we allowed them to use our radio calls and traffic violation summonses to do a follow-up check on a comparable group of recruit male officers out of the same class as the two female officers. I wasn't too impressed with their survey, because it wasn't too well made, I don't think. But the error shows that everybody hates to give tickets, I guess. When they followed up on tickets, probably, the men who received tickets from women resented it more than the men who received tickets from men. Women received it no matter who gave it to them. About the only thing that was significant was in men receiving traffic tickets, about 90% say that they would prefer to receive a summons from a man rather than from a woman. And those who got one from a man, agreed more or less, they were glad it wasn't a woman who gave it to them. On answering the calls at homes, you had a little bit, it was more of an even reaction. There were a lot of people that were a little bit shocked to call the police and have a woman show up. We also, you know, have other hazards, like, we had an old

lady driving down the street. She turned to look at one of our accident investigators who was a female and had a wreck, so she got to investigate it right in front of her.

The guidelines we had when we put the women out, and what these three sergeants checked on, was watch commanders would assign the women in the same manner as the men. They'd be assigned to a field training officer the same as any recruit; they'd have the six-month training period. Once experience was gained after six months, they'd go onto relief work where they'd work either one or two-man element as the openings came up. Under no circumstances were women to be used as an extra element or cover only on calls. They were to be given calls the same as any other police unit. Now, when we started this, you have to realize that one of the big resistances to this was the women already in police work because they weren't exposed to this kind of work. Many of them said, "I wouldn't have gotten into police work if I'd known I was going to have to get out and work in uniform." But, it also helped solve a problem. When the door was opened to accepting women, we had a flood of women applications, almost more than we had men. So, we started a pre-hiring interview, which we have with all potential applicants, making sure they understood the job they're getting into. And with the women, we told them that they must realize that they're getting in a patrol unit and would be working probably in uniform for a minimum of two years; answering calls; and doing the same work as the male police officer. Now probably one in ten applications is from a female because this knocked out a large amount of applications we had from women. They wanted to go into youth work or personnel work. They didn't really want to be police officers; they wanted the salary, probably.

During the six-month period, really, we didn't find any real hazards to the assignment. We couldn't say that it wasn't working, at that point. And still, at this point, we can't say it isn't working. So, we continued. All women hired after these two who were the original ones, were sent out into the field. And this started in 1972. Currently, we have 31 women in patrol, four in traffic, and seven in special operations and tactical, which are all uniformed assignments. A total of 42 of them. Plus we have six in the training academy right now. And we have about 20 other officers, who are in CID, personnel, intelligence, in the more traditional areas. The women breakdown is 41 white, 22 Black, one Mexican-American, and one Oriental.

Some of the problems we anticipated didn't really occur. One of them was rejection by other officers once they got in the field. We didn't find this, but later you might find that we found something else with the officers rejection. Conflict with the Dallas Police Association, which is our version of a police union, though in Dallas it doesn't bargain. It's not the type of union that Harold was describing. Probably will be. Right now they're getting ready for elections for mandatory arbitration, which most union people, I understand, are against. But this didn't occur, either. In fact, now one of the officers of the Dallas Police Association is a woman. The child care arrangements due to shift assignments didn't occur. And really, I didn't anticipate too much because the two women originals we got were single, so this could hardly come up. Though it has, if it is a problem, they don't admit it. And they knew before they got into police work what hours they would be required to work, so no doubt this is the reason this problem didn't occur.

Jealousy among other policewomen can't be measured. I don't think it occurs. Special supervisory treatment, as we said, did not occur, though there is some reason to suspect that maybe it did. But we say it did not occur.

Now some problems that did exist. In fact, on this rejection by other officers. I said they had to go through a period of proving themselves. Initially, there was some rejection. And they did have to prove themselves, but after a few incidents—and we don't selectively assign them, our city's divided into five areas, you might call them precincts in some places. We don't. And they vary from completely Gold Coast to completely black areas, where you have a high crime rate, more so in the black than in the Gold Coast. The officers have been equally assigned to all five of these areas, and apparently they did prove themselves as able to look for their partner, enough that we didn't have problems from police on it. A problem we anticipated and did occur is this news media reaction and exposure of policewomen to the news media. There's no way to overcome this because it was something that was news. And the news media did interview them. They were generally favorable in their interviews, and the publicity we got was favorable, but it made something of a star which causes some problem, as the best news in police work is not to see your name in the paper.

Originally we didn't get the uniforms in, formerly we had skirts for women police, and we had to start them out in those. The newspapers managed to get a few cheesecake photographs of ladies getting out of squad cars.

It didn't really hurt us, but it didn't help the image at all. The next step, we got them into trousers, which they currently have. The location of the zippers is about the only difference. The next problem we ran into was the objections from the spouses. Now, originally, this was more of a problem than it is now. In selecting trainers, we do try to select trainers whose wives do not object to their training a policewoman. The male officers who did indicate that they did not want women partners gave as their reason nearly every time was the potential for marital problems. The men who did, and all were married, train these policewomen, did so with their wives' knowledge and approval. We expect to prove and did prove later on one or two occasions, that once the training was over and they got these general assignments and worked with anybody that came along, we did get one or two more problems in this line. The lack of physical strength was a problem that really you just can't answer yet. We haven't had an officer murdered or raped; a policewoman murdered or raped. We haven't had one seriously injured, and I'm knocking on wood again. And here again, were we putting one out there to prove this didn't work. And now I find that we have opinion among male officers as to what management's reaction is going to be when a woman does get hurt or killed. Will we immediately say that it doesn't work and yank all the women out of the field when we get male officers hurt and killed every year and take all the women out of the field when we get male officers hurt and killed every year and we don't take all of them out of the field? And I'd never thought of this angle before. And we do have male, you know, a couple hundred a year hurt in Dallas, and we had two killed this past year. If one of those females were hurt, would management say it doesn't work for females and yank them all out? And I never thought that this would cause tension and be a lot of resentment among men, if this is our reaction to this. There's this physical strength—and maybe it's something, I suspect, that time will overcome, and in this more or less year and a half we've had them out there. They seem to have a calming effect, even on drunks. In fact, a drunk very frequently will behave better around a woman than he will around a man. Maybe in the south, I don't know what it would be in other parts of the country. We have found drunks give women much less trouble than they give men. And we've had a lot of women working one-man units arresting drunks, getting their cover after they've had him handcuffed and in the car, like the men do. We just haven't had the problem, but there's still a question of will time take care of it. There are going to be some times when physical ability is a critical factor, and these may not have arisen yet. Because in police work you may go fifteen years and never have to use a lot of force, and yet that one time could mean a loss of life. That's something you can't answer.

The physical facilities matter we had was the problem with locker rooms. We don't allow our officers to wear their uniforms home. In the case of policewomen we did. We now have made some temporary locker facilities but this is a problem, and a money problem. Like most police stations, we're overcrowded anyway. In most of the police stations, we've converted our shower rooms into women's locker rooms.

Question: You say you don't let your policemen to home in uniform. Why?

James P. Dahman:

That's one question, you know, we never had. No, we don't—I can't think of a really good answer. Over half our officers live outside the City of Dallas. And we don't like them outside the city in uniform. We do allow them to wear a uniform home with the supervisor's permission for extra-duty jobs. We just think they can get involved in thigs between their point of work and getting home. I realize in state agencies they frequently take their marked car home with them. But where you're riding a motorcycle home, or in a '42 chevy, the loud pipes, etc., it'd look better if you didn't have a uniform on.

Question: Do they require much more back-up than male officers?

James P. Dahman:

No. But now, here's a real hard thing that we can't pin-down, but we know, or I know because I've talked with some of the people out there. Most of these girls are real attractive girls. And I don't mean to say derogatorily, they're young ladies, you know, generally in their twenties. And they have good personalities; they have good training, because they meet the same qualifications. We hire average people as police officers, so we hire very good women as police officers. But, I think the men become protective, and they don't have to ask for cover. I drove around one night just looking at some calls, because what you hear isn't always what occurred. And, you go by and you'll hear a disturbance call come out, with a female unit and a male unit to cover each other. Well, I'd go by and the female unit would arrive, but about four units would arrive with males to cover it. If a male officer had gotten this original call, he'd have done well to get his cover there. And I talked to the lieutenants and sergeant on that unit about that, and they said it was a problem. Let's protect the women—she got in back before we had them meet the same standards under a police-woman's standards, and she wasn't very big, and I really doubt that she could take care of herself in a fight.

Question: What weight woman are you talking about?

James Dahman:

What weight? Now this woman was about five foot two, and weighed about 118 pounds. Now, most of these women were hired after we knew we were going into the program where the same height with proportionate weight as the men. But we've had another problem lately because they've done away with our height requirement for men, for everybody.

Question: Completely?

James Dahman:

Right. Now here's where I want to argue with these people here, the Justice Department and various federal agencies, you know, you show us you're trying and we'll leave you alone. No, the more you try, the more they put on you. And as you get rid of one requirement and meet this, everyone's happy for about two days. The next thing you get something else put on you. We're down to no, we're working on physical agility. Unfortunately in police work, back there along the way, we never sat down and decided what does it take to make a policeman. We'd always said, we need to be five foot ten, or some height with proportionate weight. You need a high school education and various physical capabilities. We never proved why, job-related, and so we're hurting now. My big question regarding this, what is this proves policewomen can't do it, what are we going to do with all of these policewomen we've hired? What if people four feet nine or five feet two cannot do police work. What are we going to do with all these we've bought, and now have a civil service protection? Fortunately, my subject's problems, not solutions. But back on women. So far, they have done us a good job but I still think time will tell. Can they continue to?

By the way, in the same line, we had to open up promotions all the way and we have one who is a lieutenant now, who had researched some of this material for me and the first thing she got upset about was the subject down here. A couple of problems came up in the line of a woman's traditional place. One isn't traditional, it's biological—pregnancy. There's no way, to me, it's equal when three of these women become pregnant, and you have to take them off the street within about four months probably, whatever the doctor says. Then they're on an inside job for about three

months. Then they take a leave of absence, so they can run out their sick time in the process. One policewoman, in two years, has been pregnant twice, so we just haven't gotten much work out of her. Because they're back in the old office job because they're pregnant. And another thing, women all over city government come up with—we have a lot of militant women's organizations in Dallas, in every kind, but women's, at least three or four that I can think of. They came up with the fact that they need a survey in city government of women being treated equally with men. They were objecting to women being given the traditional role in society and women having the traditional place and here you've got the one thing. Then they said, "The traditional role of a woman has been to stay home with her sick children. So they should be allowed to take sick time to stay home with their sick children." Now, this whole report objected to this traditional role of women until they got to this. Then they went back to the traditional role. As a result, they got it. But men can also stay home with their sick children, and take sick time for it.

Question: Have you looked into that liability issue of pregnancy? What's your city's liability when that child is quickened?

I don't know what you mean.

Well, she's out in the third month of pregnancy and gets punched in the battle. What's your liability with that fetus?

I've never considered it, really.

I guess nobody else has, because I haven't been able to find out the answer.

Why don't you check on it. We've got more lawyers than we know what to do with. Really, I'll look into it. I've never thought about it. To me, it's sort of like a man. When you put yourself out there—

The man is only one person, in four months you have two people. Traditionally, the liability of pregnant secretaries is with the community. If she trips on something in the office and so forth, that's why you let them off at the beginning of the fifth month.

I imagine we're going to have to have a court decision to decide that.

You'll probably get one. I hope you're getting ready for it.

I hope we're not getting ready for it. Of course, generally by the fourth month they can't wear that uniform very well anymore. We don't have a maternity uniform. And, generally, their uniform is not attractive. It looks almost exactly like the men's. Originally they did use men's trousers.

Why don't they use the same uniforms?

They do. We do put them into the same uniform, except, they don't fit.

Why not?

Because they're built differently. You find out all your ball point pens are bent. They wear the same uniform. The only thing we've done, now, is put the zipper on the side instead of the front. You want your officers to look good and really, it looks much better. Because when we had them on the front, it caused some terribly unfavorable comments. It was to protect us more than it was the women, I think.

Let me ask you a question. We've seen reports from different cities, I believe from San Diego or Los Angeles. They indicated that women were less aggressive in handling physical instances. Have you a study on that? You mentioned the calls, but what about—

No, in fact what studies we've done, they say, no, they're not. And we also have the argument are women passing up, you don't know what a police officer sees. But we've also had the same thought on the one-man units. We've had a strong feeling when we went from two-men units to one-man units, that maybe officers weren't seeing the things they saw in a two-men unit. One thing, or nobody else knows what they saw. And other thing, maybe, why check? Somebody who'd worked on the street like I have, you know you can rationalize a lot of situations. And how much of this occurs in women, I don't know. I suspect it occurs, but it's a little bit hard to prove.

The SMU report didn't reflect this?

No, and it wasn't because—this generally comes up on the on-view type arrest. That's where you suspect it. Because once you answer a call, you're more or less obligated to go through with it. Though at the time

SMU did their studies, I think only one of these was a one-woman unit. Generally they had a male partner with them at the time. When you have a woman with a male partner, you don't have this problem. In fact, there may be a reluctance on the male partner more than the female to get involved, for fear he's going to have to protect his female partner. And frankly, I will say that women have tried their best to avoid men feeling this way.

We have four that are going through our academy. We've had difficulty in getting the male cadets to really mix with the females in physical training, with a female partner. We had to tell them to get with it, or else. They're just reluctant to box with a woman.

Aren't they married men?

Well, I understand that that's the way it was.

By the way, 16 of these 40-some we have are married to police officers. And about 10 of them were married before they got in the service. Six of them married after that. Which, by the way, we had one interesting disciplinary problem, when one moved in with his partner. They were both single. But we have a code of conduct. No co-habiting with a member of the opposite sex you're not married to. So, they were called in for disciplinary action. They got married on the way in, so actually, they got three days off, but they were still married. It was our first shotgun marriage. Before we get off, there is one area that we did find realistic, and that is their driving ability. And it's been a joke a long time about women drivers, but we did find that this is a problem. Particularly in pursuit driving. We believe policewomen progress more slowly in pursuit driving than male officers due to a lack of experience. They have not had more accidents, but they've also, in trainers evaluation of their driving, hasn't been as good as it has been on comparable male officers. Particularly in pursuit driving. It's been hair-raising to say the least. I guess all things the trainers commented on, the driving was probably the biggest item, more than on the physical.

Do you see a strong contrast in state police and state patrol operation; a woman being out there in a rural area as contrasted with the city where she has a back-up team?

Before breakfast this morning, I thought that a woman would fit better in the state service than in the city service, because you have less, I'll say

ghetto for want of a better word. Less high crime area, although I know some of our towns aren't picnic spots. Just the whole town is a crime area. But, after talking to someone at breakfast, I realized that the isolation probably would make it more dangerous. I know there in Texas, where on the state highway you can go 67 miles without seeing a gas station. And in areas like Pecos, or Marpa, or down in there where there's nobody to protect you, I don't know. And where you don't have the county sheriffs that work around the clock to back them up.

It'd take them an hour to get some help.

It really would. And I can see a lot of hazard in this, because ours can reach for that radio. And, by the way, they don't hesitate, they don't like to be heroes like men. They'll grab that radio and call for cover. We don't object to this, because we encourage our men to call for cover in these situations. We're just having too many officers hurt and killed.

They don't compare in this manner. The only thing you can compare is the recruits out of the same class they came out of, who have equal experience.

Don't you think it's going to take five years to really evaluate this thing, to determine in spite of what we all think, and then prove it?

I think it is. Another thing we've done, by the way, in line with this dropping the height requirement is to replace it with physical agility. Now here women are having a hard time. We have a physical agility entrance. Now our problem is that we haven't been able to back it up yet. If someone challenges us, we may have trouble. Firemen are way ahead of us in matching job-related physical ability.

Why don't you use some of the same things. They did in Los Angeles, and their agility has been certified, and they use some of it. Can you carry a body?

We sent somebody out to Los Angeles, and didn't get this favorable opinion of what they were doing. I mean, it sounded good, but we went out there to look. We sent them to Los Angeles, San Jose, and Spokane, who all do this. And frankly, they were all scared to death of them and some of them were even backing out of it. We are using an anthropologist, now, among other things, out of a foundation grant, who is testing measurements, such as length of arms to shoot a shotgun. Just real

basic things nobody ever thought about. But here you get a problem on all these short people, for instance. Most of us, most police officers, are over five feet eight or nine, because that was the former height requirement. So, a six feet man with a five feet two person driving a car for eight hours can't even get out of the car and stand up. In fact, we're experimenting with some bucket seats now.

Aren't you obligated to hire a man who's five feet two and weighs 118 pounds at the same token?

Right.

Then, you've dropped your height and weight requirement completely.

You've got to be able to stand behind a police car and shoot something like a box or a target at a certain height over the top of a car. You've got to be tall enough to reach over that car to shoot. But, whether we can prove how many police officers have really had to face this situation, and it is a real need.

Do you work the ladies three shifts, midnight and all?

All patrol officers rotate around the clock every month.

Your physical agility, I assume the rationale of it could be used against you. But it is whether a man who is there a year or twenty years if he has to have a physical agility test to become a police officer he ought to be able to do it after twenty years. Now, with that said, do you require a twenty-year man to perform physical agility?

We have given the same agility test. We took a cross-section of police officers, at random, and ran them through these tests, and they did it, frankly. Now we have some overweight ones who were given time to get their weight down because of their breath capacity. We have a breath capacity measurement device which you do run people on foot. And frankly, we have officers who couldn't catch anybody. But you can't get rid of your problems sometimes, under civil service.

Have you been able to evaluate them on emotional ability or reaction under stress?

Now, our officers are under stress. I don't know of any, for instance, we have had no women break down and start crying, at the scene of one of these things. One of the things that women are supposed to be good at though. We found in checking into these calls that they apparently aren't, and that's family crises. Men seem to handle family crises intervention better than women. Women are definitely an advantage when handling rape victims. In the crisis intervention, really is one of the weakest points with women, and I'm not sure why. But it was suspected that they would be good at this, but the men seem to be better. Probably because society is traditional at placing a man in a dominant role, whether we admit it or not. Let's say that most of our family crises occur in low-income or minority areas, where the presence of a man, in minority area. In a lot of these areas it's just unusual to have a man around anyway. But the presence of a man will dominate a family group. Now, that's just an opinion.

Fritz, don't you think that's part of the experience thing, too. Young officers aren't very good at it either.

No, but we compared them with recruits, all along, now, we compared them with people out of the same police academy classes. And maybe it's the two women being single, the original two, who have the most time. And by the way, most of the women we hire do seem to be single. As you can see, we have less than 20 married out of '67. And they have—by the way, I also suspect police work is hard on marriages. And I have a feeling that it's going to be even higher on the policewomen that are married. I believe the divorce rate, or the family break-up rate may be higher.

What about turnover rate? Do you know yet?

Our turnover rate has been less for the women than for the men.

Washington, D.C.'s study says sex is not a general occupation qualification for patrol. Women made fewer arrests and gave fewer traffic citations. Men were more likely to engage in unbecoming conduct, injuries to women did not cause them to be absent from work. The data showed that there was no difference between male and female ability to handle violence. Police officials in rank thought that officers believe women perform less satisfactorily. And they've had equal convictions for both. Now, we've had the same experience with convictions, and these are their studies, made with their statements, and I'm not that well up on what they're finding. We had an article in the paper the day I left town that I didn't particularly

care for, but I brought it. By the way, I noticed in the Tennessean, this morning's paper, some department—did any of you see it? It's been filed on for a policewoman applicant who has since been hired that she's suing them for not hiring her quicker. Also, there is a class action law there. These are some police officer's opinions, supposedly. Drunks who take a swing at a man stumble all over themselves to open a door for policewomen. And we have found this occurs and I suspect this has something to do with the southern drunks.

We've had one woman use a gun here about a month ago, where we had a car stopped on a traffic violation. The male walked up to the ticket side of the car; the female walked up to the security side of the car. They told the man to keep his hands on the steering wheel when they walked up there, the man put his hand down into the console, between the bucket seats, and the woman fired at him. I wouldn't second guess her on that. I doubt if he'll ever do that again. He didn't get killed; he got some glass cuts. We didn't get any criticism over it. I wonder if a man had done it, if we would have. I don't know how much time she allowed, but this wasn't our brutality charge. That was, the brutality charge was over handcuffing.

What about your training on your firearms, with your women? Shotguns and revolvers. What about it, could they use them, or did you have to extend more of a training period for them?

It took more training for them. Of course, we had no women with a military background. And, our training. This is a group effort, our firearms training. It is really what brings the class together. This is where we get more in our training and making a unit out of them than anything else, is putting them on the range together, where they work in teams. But the women do require more work in firearms training and really they don't become as accurate.

Chief, had you any internal problems when you said ladies marry patrol officers?

We've avoided some of the problems and I don't disagree with it. We allow them to work the same units. And I think you have to. Particularly the same watches.

By the same units, I mean, our people rotate, so if a man and wife are going to rotate late nights, evenings, days on the same shift. They will not work together.

That's discriminating against the other men who had to do some schedule adjusting.

We've always had openings on all our shifts. We don't do it until we do have an opening. We don't force an opening. Really, it's not like we have fixed watches, where I'd see this would be more of a problem. Because everybody rotates. There is no good watch. If you have fixed watches in preference to working days, I could see where you'd have a problem. But none of them are good because they change every month. So there's not any real discrimination here. Somebody's got to work each of these three lieutenants' watches.

Would it not compound the problem to have a man and wife working the same squad car?

I think it would. We've had it occur, but we've told the lieutenant. Of course, we give them complete freedom, assign them like anyone else. And if it's a two man unit and you've got a woman working relief, which since they're younger, they generally get relief work. I don't know if you know this, but we've beats in the city, and you have some seniority to have your own beat. But women don't have enough seniority to have their own beat, so they generally work relief, which means they fill in when a man's off. This is because the lieutenant's say, "Well, you told me not to judge them one way or another. I had a vacancy on that beat, his partner was off, and she's the relief woman, so I put her with him." Then you can't argue the logic.

Do you have any walking beats left?

We have a few downtown walking beats with straight days, that are handled for some reason by our traffic division, but they're not patrol beats. Downtown we use civilian traffic controllers, and these are a mixture of men and women long before we had women officers, we had women traffic controllers. We have something I didn't care for in the paper, and this is true, we don't know how much trouble a woman is passing up, one captain said. We don't know if a woman sees something suspicious and just drives on,

preferring not to mess with it. But we also don't know this of men. Potential for interdepartmental promiscuity is another problem that worries the administration. Now, frankly, it hasn't worried me. I guess it could be a problem. I interview all applicants that I have time to, because I like to know what we're getting. Our department recently changed its administration. The chiefs don't last five years in our department. One of the big arguments is that we are lowering our standards. Maybe we were. And, one period we did. We hired anything that walked through the door, for about six months. And the police officers got real upset about this. We went through our academy and kicked out a bunch of people that had been handled for all kinds of crimes and things. We ran about 30 - 40 people off after the change in administration. So now, anyway, it's got around to the fact that we have an interview and I sit on the interview board and interview all applicants, which is a real time-consuming thing. We're pretty sure we're going to hire before they get to me, but then we do interview them. And I always bring this up, if they're married. By the way, we give polygraph tests, and our people are pretty well adjusted that we hire, because you know a lot about a person when you give them a polygraph. I tell them, "Do you ever discuss with your husband, working out there in the middle of the night, with a man, on a slow night. And a squad car is a very intimate relationship." Now, I've never worked with anything but men, but as most of you know, working with a man, you develop a very close relationship. Because you spend more time with them than any human being in the world. Riding in a small car. And I see a potential for a problem and I want them mainly to realize there is one, and I want them to think about this. Most of them hadn't, and this surprises me, that either the woman or her husband, this hasn't occurred to them, this relationship. Maybe most people don't realize this. As you know, anybody hits your partner or calls your partner a name, it's the same as if he did it to you. It's a unique relationship, a police partnership.

We had an incident that hit this program, regarding a policewoman being raped. I'm not sure it was caused by the fact that she was a policewoman. We had a policewoman get off duty at eleven o'clock. She went home to her apartment. Going from her car to her apartment, she was held up. The man took her purse, her car, which had her badge, her billfold, and her gun in it. She called the police, put out a description of the car, and about an hour later a chase developed in another part of the city with this same car. And they pursued it all over town. It wrecked out in the near downtown area. And several squad cars converged, the suspect jumped out and ran a couple of blocks down the street and an officer was tackled in back of

an apartment house. And, he had the woman's gun in his hand. He turned around and shot and killed the officer. She wasn't on her police duties when this occurred, though all women don't have pistols in their purses, so I have a feeling more women than we think carry pistols who work those hours. A rumor started that this woman actually knew the robber, and it caused some bad rumors about her and it was a bad situation. Although I'm not sure it was connected that much with her being a policewoman. But here's a statement that got my attention. It quotes several officers saying, "What I'm afraid of is once a woman gets hurt, someone in the administration is going to say, that's it, I knew it wouldn't work." They want to pull the women officers off and get them out of the field. But the strange thing is that the men get hurt all the time and nobody ever talks about pulling them out of the field. Maybe they have a point there. I can't say that women can't perform the police function because they have been. But if we do prove in four or five years that somebody admitted that they can't, what are we going to do with them? This is what concerns me. Civil service protects the job. Are we going to have to pad our staff with women? In Dallas, we don't have a lot of inside jobs. What we don't know is more than what we do know. But so far there is just not a lot of negative things I can think of except that they need more firearms training. Right now there is a protectiveness on the part of the male officers. I'm sure this will disappear in time and when it does, we'll then find violence once again. No matter what this officer feels, if we have a woman raped, or seriously injured out there, will the public demand we yank them out of the field. And if they do, how will this affect the male officers. Nobody worries about me getting shot out there. Of course, hopefully, he's not going to get raped.

Are there any questions? Like I say, I've given you a lot of problems, but not many answers. So, I think with the real problems we're going to find out more in two or three years than what we know right now. Like anything new, it's being treated as new, and when it gets treated as routine, that may be when we start seeing our problems more clearly.

Colonel Speir - General Chairman's Report:

Well, we'll get our business session underway this morning, and we have quite a bit of business to handle and we can move right on through with it, I think. There's been a question placed by Major Kaufman of the Florida Highway Patrol, that he be permitted to speak to you for a moment because of an urgency of him leaving. So, I'm going to recognize Major Kaufman, at this time.

Major Kaufman:

Ladies and gentlemen, I bring you greetings from His Excellency, Rubin O'Donovan Askew, Governor of the great sovereign state of Florida. From General Ralph Davis, Executive Director of the Department of Highway Safety, and Colonel Eldridge Beach, Director of Florida. I want to take this opportunity to thank Mr. Armour, Colonel Danrick, Captain Patterson, and the other members of their fine staff for the very informative workshop and for the great hospitality that they've shown. As you know, ladies and gentlemen, Florida holds a very close kinship with the great state of Tennessee. Our first territorial governor was the great general and President of the United States, Andrew Jackson. Florida has had many firsts in its history. We had the first settlement in this great nation of ours in St. Augustine in 1565. The first man on the moon hailed from Florida soil. We have had many great men come from our state down through the years. I would like to introduce one of them to you right now, the Honorable Willis Booth, of the Florida Department of Law Enforcement.

Mr. Booth:

Fellow colleagues, ladies and gentlemen. After an introduction like that, I feel like I not only was born in St. Augustine the day it was created, but I also feel like I just came back from that trip to the moon. We have enjoyed every minute of this hospitality. Tennessee is a great state. We have a deep affinity with them in Florida, with Texas, and with all of the other states represented here. And it is our privilege, and I apologize for usurping a few moments of your time here before we get into the business meeting. But I haven't heard anyone else say that they wanted to invite this good group for the conference next year. So, we have thought about this for several months. So, at this point, my distinguished colleague and I, representing our two departments in the great state of Florida, extend to each and everyone of you the invitation to come to the Sunshine State for your conference in 1975. I don't know where it's going to be in 1976,

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but next year will be the last year in preparation for our 200th Anniversary. So, we haven't decided on a choice of the location, but I guarantee anywhere you decide, you're going to enjoy it, because anywhere in our great state is a place you can enjoy. And you can bet one thing for sure. That if you do decide to come to Florida, Bill Kaufman, General Cook, Colonel Beach, my boss Commissioner Troelstrup, and all of us will do everything we possibly can to try to match, which I think this has been a matchless conference. So I want to leave you with this thought. The invitation is extended to you. However, if there is any other state within this region that wants it worse than Florida, we'll be glad to yield. If there is no other state that wants it that bad, then I hope you'll vote and make your preparations to come and visit with us and let us be your hosts for the next year. Thank you very much.

Thank you, Major Kaufman, Special Agent Booth. Well, as Chairman, we'd have to then call to the floor, are there any other invitations for 1975 from any state in this region? If not, what's the pleasure of this group?

Mr. Chairman, I move that we go to Florida.

Is there a second?

I second it.

All in favor, say aye. Opposed, no. The ayes have it, so ordered. Now, does anyone want to volunteer for 1976 while we're here? I guess they'll have to think about that about a year, won't they? Thank you, gentlemen from Florida. We'll look forward to visiting your state. And I know that with the capabilities you have you will beat this one by many degrees, so, we're looking forward to visiting with you. Now, we'll recognize the General Chairman for this report, Colonel Wilson Speir, who is also the fifth Vice President of the International Association of Chiefs of Police. I was a little remiss in my duties last night and I didn't introduce you that way, Colonel Speir. But I will this morning, and if you'll take the mike and make your report, I know you have to get back. You've a little prison problem with some hostages, and I know you were worried about that this morning.

Colonel Speir:

First, let me express my appreciation to Claude and the Department of Safety in Tennessee, and everybody concerned for the greatness that you have exhibited here in making this one of the finest regional meetings that we've ever had. I think you've done an outstanding job, and we're grateful to you for it. We appreciate all the splendid efforts, they've been mighty, and I think it was a very profitable conference. As you know, last year you elected me as fifth Vice President of the IACP. I think I would be remiss in my duties and responsibilities if I did not express my appreciation to you for your untiring efforts and the work you put out in that direction. I sought to represent you as you would want me to. Of course, I'm still far down the ladder. President Looney asked me to express his appreciation to you and represent him here to each of you and to say thank you for the fine job that you are doing and the cooperation that you extended him and the other officers and officials and staff of the IACP. I do bring greetings from President Looney to you.

I would now like to call for the workshop reports. First is Major Goodwin, Chairman of the Field Commanders Workshop, for a brief report.

Major Goodwin:

I think that our workshop probably took in my opinion, less preparation than any, because I think we discussed problems we've been having for years. We found that in the meeting everybody does have vehicle problems. I don't know whether we came up with any big decisions on what we're going to do about them or not. For example, a few of the things we talked about was evaluation of personnel, disciplinary problems, salary structures, organizational structures, applicant investigation, personnel complaint investigation. I think one that we touched on that probably hits the majority of these was the Fair Labor Standards Act. What problems this is going to cause us as field commanders. In preparation for the workshop, I got a sampling from the six states in the region. I asked that the problems be submitted from these states. There's no problem in getting responses to the questions as we brought them up, for the problems we were talking about. In fact, the discussion did not end in the workshop but continued at night. We still talked about our problems. So all in all, I feel like we had a good workshop.

Thank you, Major, we appreciate that. Next on our schedule is planning and research workshop, and I believe the chairman could not be here, so Captain Walter Cheatham of Tennessee's Highway Patrol, I believe, is chairman of the planning and research section. Captain Cheatham?

Thank you, Colonel. In planning for our planning and research, we asked each one of the several states to bring a policy procedures manual, operators' manual, standards forms, or uniform forms, and as you can see, this is going to stack up clear to the end of the table. What you see is what they got. I have a little more out there on the transportation desk before you leave, you'll also get a copy of the minutes of the meeting, which I had to reproduce, and then you'll get the rest of your package. I think only one package that I have everything for is South Carolina. They weren't in it, but if there is anybody here from South Carolina, be sure and get that package and carry it back to the hotel with you.

Planning and research workshop was called to order on time, and following the introduction of the various representatives participating in the workshop, each state agency described their planning and research function, and projects of mutual interest. Mr. Glenn Murphy of the IACP Legal Section led a discussion on the federal wage and hour regulations. Mr. Murphy emphasized the fact that the guidelines for law enforcement have not yet been established. Those two questions must be answered before such guidelines can become effective. What is proper compensation for overtime and what procedure will be used to count hours, that is normal pay period. General discussion followed Mr. Murphy's presentation and it was made clear that some attempt must be made to assess the potential impact of wage and hour regulations on the operation of a law enforcement agency.

The last half of the morning session was devoted to a variety of topics, most of which centered around the agency's efforts to produce many full and useful organization structures, procedures, and research. It became clear that many of the agencies' representatives shared mutual problems. It also revealed that there is a growing need for formal exchange of information between agencies in order to eliminate duplication of efforts, as they improve the effectiveness of the planning and research effort. The afternoon session was held jointly with the communications and data processing workshop participants. The primary topic of discussion was the need for the uniformity of output from the various state traffic records systems, including registration, traffic tickets, accident reports, and other information. Such uniformity would permit the easy exchange of information

between states. It should provide for the elimination of duplication of developmental efforts. Several of the state systems were discussed in detail, information was exchanged pertaining to the uniform traffic ticket, the uniform accident report, and use of computers for data analysis. These discussions isolated two problem areas for future research and planning efforts. Lack of communication between planning and data processing personnel. Number two, failure to use the computer's ability for data manipulation when studying problems and identifying potential problems. Each of the states represented was surveyed to determine what particular information could be obtained. I will compile—this is not contained in our data processing, but what information can be obtained from other planning and research sections, like manuals that they do not bring with them. I am going to compile this and send each of of them the list.

The second section of the planning and research workshop was called to order on time, and Lt. Fred Portenwood from Georgia State Patrol led an in-depth discussion of the need for driver training. This is police driver training. He explained that the State of Georgia had developed a driver training program which employs race drivers as consultants. Lt. Portenwood reported that the program is still being evaluated, but that two major improvements have already been noted—a reduction in the number of traffic accidents involving state troopers and a reduction in the amount of property damage in state automobiles. The program led directly to a complete re-evaluation of the vehicle specification utilized by the Georgia State Patrol. This evaluation isolated several major problems, which resulted in several changes in their specifications. Lt. Portenwood indicated that Georgia would provide technical assistance to any agency interested in the establishment of a similar program.

Mr. Norm Darwick, Director of the Division of State and Provincial Police, IACP, presented the division's stand on the IACP central index for research information. There is also a national state police planning officer association that maintains a similar index. Mr. Darwick stated that the IACP would maintain and improve their service and there would be no charge for these services to the several member states. This presentation was followed by discussion of several reference services, including the National Criminal Justice and several others, and the critical need for all the state agencies to participate in the free exchange of information. Most of the agencies represented indicated they would support the central index system of the IACP.

The second half of the second day session was conducted jointly with our personnel workshop people. Mr. Tom Wilson, a management consultant from the State of Tennessee, gave both workshops an informative presentation on the techniques, analysis, and development of organizations. Mr. Wilson provided all participants with an extremely valuable insight into the method utilized in the modernization effort within our department in our driver control section.

The planning and research workshop adjourned at approximately 1:30 pm. We want to thank those who visited our section, including Mr. Darwick and Mr. Phillips from the IACP; Colonel Dandry, and Colonel Dawson, who dropped in. Most of all we want to thank Commissioner Armour and all of your administrators for allowing us as planning and research officers to gather together and exchange not only materials but also ideas and information. We think that through this, rather than just being able to furnish the commissioner with three-manned planning and research sections, by gathering information from the other states, we are able to offer him a 45 or 50-man staff, really, at the expense of other departments. On the national basis, of course, this could multiply up into 200 or 300. We hope through this we'll be more efficient and better qualified planning and research officers in this way.

Thank you Captain Cheatham. We now have the personnel workshop, with Major Glenn McLoughlin.

Major McLoughlin:

Commissioner and your staff, the staff of IACP, and our fellow attendants at the conference. We appreciate the opportunity of participating in this kind of program. We think it is unusual. We think it was extremely beneficial. I would like, first of all, to express my appreciation to Captain Frederick, who was the Vice Chairman of this particular workshop, who was the engineer behind it all. He did a tremendous job in preparation, and making sure that it moved along on schedule. He provided us with splendid resource persons who will be identified in the report. But, to him we owe a very deep debt of gratitude. Attending this particular event, in addition to the Chairman and Vice Chairman, were also Lt. Everington from North Carolina; Lt. Paul from Alabama; Captain Ridden from Georgia; and Lt. Thomas from Mississippi. Among these resource persons which we had, were Robert Chapman of the Tennessee Department of Personnel, Dr. James Johnson also of Tennessee Department of Personnel, and Tom Wilson of the Tennessee Department of Finance. We are also privileged to have others from the Tennessee Department, particularly Colonel Danner and Dawson to join with us on occasion, and we've appreciated their comments and contributions as well.

We set out to try to identify some objectives toward which we would hope to work. And these were to include or to try to identify some common problems in the area of personnel administration, to share some experiences related to these problems. The sharing of these was primarily for the purpose of providing us with a better understanding of the nature of the problems themselves, and then to discuss solution or alternatives for action. It was not our intention to attempt to try to find a common or a uniform solution to these problems, because we were aware of and will continue to be aware of different political, organizational, and economic factors which have their impact on whatever method is selected for approach or use in trying to solve personnel problems. And recognizing these and what we were doing was looking for various ways, or solutions and try to see if some of these might find some application in our own particular jurisdiction.

We were, of course, concerned with uniform and solutions from the standpoints of the goals or objectives with which we move. Some of the areas of concern which were identified in our workshop include job deferments, validation of job requirements, selection instruments and procedures. And then in connection with the relationships which exist between the operating agency and the state's central personnel office, we identified several things. The establishment of standards for selection, the testing of applicants, employment lists, that is, eligibility for hiring, and we were benefitted extremely well, I think, from the input from the Tennessee Department of Personnel, because here we begin to see something of the approach there. And some studies which had been made were shared with us, both by Dr. Johnson and by Mr. Chapman, as they talked about the subject of the identification of job elements. The structuring of tests, which will identify the job elements more adequately. The relationship of job performance to test validations, and the problem of rating the applicant. The problem of personality versus ability to do the job, were discussed somewhat at depth. The setting of priorities, or the relative values of job elements, was a part of the discussion time. Distinguishing between the acceptable, the average, and the outstanding. And these factors, as they might be applied to establishment of these priorities. Also, we were made aware of the problems that might grow out of the use of screenout elements in selection and yet, the benefits that might be derived therefrom as well. We, too, joined with others in our workshop time, and we had a joint meeting with the objective workshop panel on contemporary personnel issues. Many of you, of course, were there. And, on this occasion, along with this larger group, we heard Mr. Taylor of the LEAA Office of Civil Rights Compliance; Peter Robertson of the Equal Employment Opportunity

Commission; and Mr. William O'Connor of the U.S. Department of Justice, Civil Rights Division, and benefitted from this larger approach to and the impact that these agencies have on the work in the personnel office. Some of the things that we looked for and found were guidelines, or discussion on these for compliance, as described for us by Mr. Deeter. Some of the more specific and direct analyses of the elements of Griggs case that we had an opportunity to hear. Then we heard the role of the executive branch of the federal government contrasted with that of the judiciary, as it relates to the matter of program compliance, which is one of the main factors which is brought to bear on us from the standpoint of the U.S. Department of Justice.

Some of the employer-employee relations occupied our next session. And this was again, as the personnel workshop went back into its own session, and here we had the extremely well-presented discussion of the employer-employee relations from Mr. Bob Chapman from the Tennessee Department of Personnel. Some of the items that occupied our time and our discussion here were grievance procedures, disciplinary action and procedures, suggested programs for suggestion and for award, exit interviews, affirmative action plans, recruitment (these involved referral and test validation and other discussion on this) employment from the eligibility lists and things of this nature. Here we found some contrast between the various agencies, or the procedures that are followed in the various agencies, some of us having less formalized, simpler personnel offices than others.

A great deal of information was made available to us in the work they've done in Tennessee by the Department of Personnel in the development of more uniform procedures for disciplinary action and for grievance. One thing that I think most of us reacted to with a great deal of favor, was some of the adjustments that have been made possible in Tennessee, where the agency may have the opportunity to modify some of these grievance procedures or disciplinary action plans if there are contingencies there which suggest it. Of course, all of this is being done under the larger umbrella of the central personnel office.

Following this discussion, and our only problem here was a lack of time, we identified many of these, but we hope sometime to go into many of them in greater depth. But we adjourned from this session and had the joint meeting with research and planning, as has already been discussed by Roy Cheatham. We were, as already outlined, concerned with some of the methodology as well as the objectives or the purposes for organization, and some of the methodology of studying an organization. Mr. Tom Wilson of the Department of Finance, enabled us to get a keener insight

into what organizations are. We discovered some of the ways for studying, and also he gave us some insight into the development or the design of tools for studying organizations. I think one of the strong points he made was almost by way of passing which found a way in my notebook. And that is to learn to appreciate the data, to generate action, not just for the accumulation of information. I think this is an underscore of what he had to say, because all that he had done, and the work that he was reporting on that he had done with the Tennessee Department of Safety, seemed to indicate that the collection of data was not just for that, but it was for the purpose of determining action and to chart action. I believe some of the results coming out of that study seemed to implicate that this was true.

By way of summary or evaluation of what we did, we believe that the objectives of our workshop were met. The problems common to all were identified in these areas that we've already described. We found some keener understanding of them and we shared some experiences which we believe will be meaningful for us as we return to our own agencies. Even some of our appraisers, which we were willing to share as well, will be of benefit to each other. We exchanged some possible resources for this model. These were in the form of exchange of documents which were brought to the workshop, and also in the establishing of personal contact, where we believe that in the future we can find some help in the further solution of problems which time did not permit us to explore adequately here. No general solutions, of course, were apparent, but we found many things which will give us some additional areas of study.

In conclusion, we'd say that this workshop was successful, and we're extremely grateful for the opportunity of working with these people in this study. Time did not permit exhaustive study of these, and we agree that this is good as well. Because it isn't going away just a little bit hungry, and perhaps this is an incentive and motivation for further work. Finally, we would say thanks to all who made it possible, particularly our thanks to Commissioner Armour, and all of his staff. And my own personal thanks to Captain Frederick and his staff for what they did in preparation and execution of the program. We've had a good time, as well as a good workshop, and we believe the future for this kind of program is certainly assured because we've got a taste of something that has been good. Thank you.

Thank you Major McLoughlin. We have sitting in the back of the room a distinguished gentleman who was talked about a few minutes ago. I don't know if he got retired, or just got fired. I haven't found out yet. We have the former Superintendent of the New Jersey State Police, and the General Chairman of the State and Provincial Police, Colonel Kelly. I'd like for you to stand, Colonel. We have to kid him a little bit about that. We've had something unique here, Colonel. At least in my knowledge that we've had five workshops and an Executive Session, which has pretty well covered the field and the problems that exist now in law enforcement, trying to involve more people and more subjects, that update us all and keep us abreast of what's happening. So I think it's been a great meeting, with a lot of participation. The next workshop report will be our training workshop, Captain Al Porter.

Thank you, Commissioner. Gentlemen, the training workshop, I feel, was very interesting. And I think it was productive as well. We realized from the outset that there were a multitude of problems in training men for law enforcement. And we knew, of course, that we certainly couldn't try to discuss all of these here, in the amount of time left. So, what we tried to do was pick out a few of what we considered perhaps were the most important and problems that affected each of the states. We finally settled on about six major problem areas that we discussed during the workshop. First, we looked at educational entrance requirements for recruits, realizing, of course, that other forces have a bearing on this. We talked about EEOC guidelines and National Standards and Goals recommendations. We felt we should address the problem and at least make our wishes known or this group's wishes known as recommendations. We pretty well went along with keeping with the National Standards and Goals on this. We felt that it would be desirable that recruits have an associate degree in the criminal justice area, but we didn't want to tie it down to that completely. So we would like to see a waiver provision under the following two conditions: A) 60 hours college credit in approved general academic work, or a high school education providing candidate had obtained one of the above requirements within five years after date of employment. Of course, in the case of the item B waiver, he must show satisfactory progress towards that grade. In other words, if he felt like he couldn't make that fifth year and be involved in that kind of work with 60 hours college credit.

Another problem we looked at was the placement or the relationship of planning and training in the overview of the law enforcement agency. We felt like the planning and training pretty well—there was a lot of duplication between the two, overlapping. We felt like they should be on an equal basis under one division head, if possible, to assure better communication and coordination. We felt like the planning for the organization need both planning and research must supersede training. And that training sponsoring is to meet the needs outlined as the result of planning.

It looks like now, a lot of our programs are going to suffer for the lack of funding. We discussed many things, many ways of funding, things we could suggest to a state legislature. We looked at about four areas, possible ways of funding, allocation and the percentage of automobile premiums, or automobile insurance premiums, earmarking of highway funds, or earmarking of federal revenue sharing funds. We were very concerned that all training officers that were present were all concerned about what's going to happen, especially to a specialized training programs without federal funding, whether it's phased out or closed.

Another area we looked at was on-the-job training; the break-in period for new officers. We felt that training, the training unit in an organization, should be involved in this, and the selection of officers to do the breaking-in, and also the design and evaluation, of course, to be made on new officers during the break-in period, and perhaps even after that. In this area of break-in we looked at when should this training begin. There seems to be some thought that perhaps a man could be hired and placed in the field, and then brought in for training and we, as a group, disliked that idea. We felt that classroom training should be completed before the recruit goes into break-in pay in the field. Or, at least, should complete enough of the training to have a basic knowledge as to the authority and responsibility of an officer.

Then we looked at one other area, as far as productivity and service to the department. Where does training fit in the organizational structure. We felt that in some agencies, perhaps in the past, training has not had its rightful place. We feel that training is very important, one of the most important things in a law enforcement agency and we made recommendations. We felt that the head of training should report directly to the chief executive of the law enforcement agency and should function like a member of his staff. We had reasons for this. Any new program initiated in an agency that would affect training, and training should have input into planning and designing of programs. Personnel policies and procedures are often formulated, and training should be put in here also. Training affects all phases of law enforcement agencies. We felt that training should at least be present at the staff meetings and have input into them.

The last problem area that we talked about was the movement that seems to be underway in the past few years, to marry training and education. There is a movement in some areas for colleges to take over the training of police officers. While it's obvious there's a need for education in law enforcement and that the academic community should, of course, be involved in education, it's just as obvious that there is going to remain a certain amount of pure police training that has to be done. The man has to be trained to stay alive and his education isn't going to help him very much. We felt that training and education are two separate and distinct functions and they should remain so. There, of course, was a great amount of discussion between the problems I've just tried to brief with you and there are certain recommendations that this workshop committee made. I think we all enjoyed the discussion. We enjoyed the privilege of coming here. We appreciate some of the things that have been done for us, Commissioner. Thank you very much.

Thank you, Captain. Our next report, our last workshop, is on communications and data processing by Captain Tommy Hanbury of the Tennessee Highway Patrol.

Captain Tommy Hanbury:

The communications and EDP workshop convened on Tuesday, July 23, with introduction of participants followed by reports by the various state representatives. The states represented were Alabama, Florida, Georgia, Louisiana, Mississippi, Texas, and of course, Tennessee. Representing the FBI were: Mr. Wallace Haskell, FCC, Knoxville; Head Gunnelson, SAC, Memphis; Mr. Nelson Norfor, FBI, Washington; and Andrew J. Decker, FBI, Washington. Representing in LETS: Major Larry Beddome, our Executive Director of National LETS. Mr. Norfor, the special agent from Washington, gave a brief status report on the NCIC policy on computerized criminal history, and an advisory policy board stand on privacy and confidentiality of information. We discussed NCIC plans for missing persons, like a runaway, entry for all states, and I know that most states here are having problems with missing persons and runaways, so we're hoping that we, in a few short months, should have intracapabilities to prevent the missing as well as runaways. Mr. Norfor also restated NCIC position towards message switching in relation to the LETS system. NCIC has voiced their approval acceptable job of message switching that LETS is doing. They're no longer interested in entering the message switching field in competition with LETS. Most states have been having problems in hearing rumors contrary to this, and you can put this to rest, gentlemen. I don't think NCIC is going to try to get into a switching battle with LETS.

Major Larry Beddome, our Executive Director of National LETS, gave a report outlining the crunch status of future plans of the LETS system. He gave a brief history of how LETS was developed by the states totally used without any financial assistance. The system concept was so successful that it became overloaded with traffic and an upgrading became necessary. The board voted to seek LEAA funds for this upgrading, and LEAA provided 1.6 million to assist the states in the LETS upgrade. The new system became operational in December 1973, with enough capacity to handle the old system's daily traffic in one hour. The concept of LETS in its beginning was to handle roughly 12,000 messages a day, or in a 24-hour period. This upgrade gives us the capability to handle 12,000 messages per hour. The possibility, as Larry tells me, is that it can handle up to 24,000 to 26,000 messages per hour. With just a little more money, we can handle five times this amount. LETS was designed as an administrative message system, engineered to allow direct access into driver's license and motor vehicles files. This concept now gives nearly instant response from the office to an out of state agency. In essence, what we're trying to say here is we run a test when it went operational in December. We carried a message in what we call Tennessee NCIC. We sent it to Arizona to come back to us and our time out there and back was seven seconds. You people not in communications, it would certainly seem impossible, but we hit it with a stopwatch and we hit it with seven seconds. And we're now going into Pennsylvania for a simple driver's license check for a history. And we're going directly from Tennessee's computer to Pennsylvania's computer, to within ten to twelve seconds, and getting a complete readout. So, this gives you some idea of what we're doing now and how we have upgraded. Major Bidone discussed how he and Director Clarence Kelley met to resolve the problem that appeared to be developing in the NCIC in the LETS area. Mr. Kelley stated to Major Bidone, we wanted to provide good NCIC service to local and state law enforcements, but would not do anything to harm LETS. They agreed that there seems to be a need for two paralleling systems, and we're all in agreement with that, the states representatives. Major Bidone said that the traffic load is growing daily to where it's about double, what it was in December 1973 when the new system went into effect. Presently there are six states allowing interstate access to their MVD file. Tennessee, we're bragging a little bit here, but we're certainly proud to be one of those six. We were the last of the six to enter it. There are 26 states with computerized communications system that are hooked into LETS and several more are planned with this type of assistance. One advantage of a state computerized communications system is to allow any user agency connected to utilize one terminal to do various facts, attach. What we're saying here is that with one terminal we train an operator, we can go into NCIC, we can go into various states, computer to computer, without having to learn four or five different pieces of equipment.

I know that we, at one time, had three pieces of equipment that we had to train our operators to do, so this has really cut down on training, as well as giving fast, accurate service to the officer in the field, and this is what communications is all about. Combined communications and EDP workshop was held in the afternoon. The subject discussed by various state representatives were the status of state traffic record system, uniform traffic ticket styles, and uniform accident report status. The workshop reconvened on Wednesday, July 24, at which time Mr. Dick MacDonald, special IBM consultant for the criminal justice community, conducted an open discussion on the need for a polo criminal justice communications. This included courts, convictions, law enforcement, etc. The topics were the history of development of law enforcement systems, integrated justice systems, management information systems, shared versus dedicated systems, and the security and privacy issue surrounding the computerized criminal history status or systems. I feel that participants were impressed by the amount of progress made in recent months by the states representatives, especially through the efforts of LETS. We all feel very good about this, however, we realize that we have a long way to go in providing all the communications tools needed, both in the voice and data areas. Some of the problems which surfaced during the workshop were, standard of files and codes. We have a capability of going from Tennessee to Illinois, and getting this information back. But our codes are all wrong. The Tennessee code for drunk driver may be 20; Illinois may be 22; and we have to go to a fact sheet and pull this out, so that we're talking about again, fellows, is time. The privacy and security issue and potential hazards to a law enforcement community was can this issue be resolved. A copy of this will be made to all state assistants, as well as the minutes. Thank you, gentlemen.

Let's give all these chairmen—I think they did a great job. I've been asked to request you chairmen to file your reports, if you would, with Ron, so it will be a matter of record of this meeting. If you would, I would appreciate it very much.

BUSINESS MEETING  
1974

DIVISION OF STATE AND PROVINCIAL POLICE  
INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

REGIONAL CONFERENCE REPORT  
1974

COLONEL J. R. PLANTS, GENERAL CHAIRMAN  
NORMAN DARWICK, DIRECTOR

DIVISION OF STATE AND PROVINCIAL POLICE

REGIONAL CONFERENCES, 1974

DIRECTOR'S REPORT

1. Financial Report (Copy attached).
2. Review of current proposals submitted to the Law Enforcement Assistance Administration on behalf of the Division of State and Provincial Police.
  - A. Comparative Data Report
    - 1) Printed every two years. 1974 issue should be received by you in December.
  - B. Regional Conference Proposal
    - 1) Support travel for two executives from each state.
  - C. Police Physical Standards Project - Research Concept Paper
    - 1) Letter from LEAA
  - D. Minority Recruitment Proposal - Rejected last year and submitted again this year at the direction of the Executive Committee - Rejected again.
3. Central Index
  - Current status and conflict with State Police Planning Officers Association.
4. Clearinghouse on Information Concerning Police Women Established at the IACP - Police Foundation grant and administered by the Public Affairs Division of the IACP.

5. Management Career Development Program

6. Division Programs - In consideration of the objectives of the Division of State and Provincial Police, the following is a review of Division activities:

- a. Conducted 4 regional planning sessions to develop agendas for the four executive conferences for state police administrators.
- b. Coordinated activities and provided liaison for meetings of the Executive Committee of the Division.
- c. Continue to publish the Division newsletter entitled, Memoranda.
- d. Coordinated activities and provided liaison to IACP's Auto Theft Committee.
- e. On a continuing basis, providing the necessary developmental work and coordination for the two (2) annual State and Provincial meetings and the Executive Committee meeting to be held in conjunction with the Annual Conference in Washington, D. C.
- f. Developed and submitted proposal to the National Highway Traffic Safety Administration to support development of a Model Police Traffic Services Procedural Manual.
- g. Developed and submitted proposals to LEAA for funding of the State and Provincial Regional Conferences and the 1974 Comparative Data Report.
- h. Maintain a continuing liaison with key officials of the National Highway Traffic Safety Administration and the Law Enforcement Assistance Administration.

- i. Provided liaison to the Motor Vehicle Manufacturers Association in areas concerning vehicle security and the Vehicle Theft Technique Reporting System.
  
- j. Participated in a proposed rulemaking hearing sponsored by NHTSA regarding the exemption of police vehicles from the requirements of the inter-lock system standard and the impact absorbing bumper system standards.

The General Chairman testified before the Ervin sub-committee concerning proposed legislation relative to the privacy and security of information systems.





III. Recognition of State and Provincial General Officers and Members of the Executive Committee.

As most of you know, Colonel John R. Plants retired from active police service on July 5, 1974.

A. General Officers:

General Chairman, Colonel Wayne Keith, Colorado State Patrol

First Vice-Chairman, Temporarily vacant

Second Vice-Chairman, Colonel Walter E. Stone, Rhode Island State Police

Secretary-Treasurer, Major Eugene E. Olaff, New Jersey State Police

Advisor, Bernard R. Caldwell, San Diego, California

Sergeant-at-Arms, Major Adolph M. Pastore, Hollywood, Florida

B. Executive Committee:

Immediate Past General Chairman, Colonel Wilson E. Speir,  
Texas Department of Public Safety

Colonel David B. Kelly, New Jersey State Police (Retired, July 1, 1974)

Colonel James J. Hegarty, Arizona Department of Public Safety

Colonel Frank Thompson, South Carolina Highway Patrol

Chief Will Bachofner, Washington State Patrol

Commissioner Walter Pudinski, California Highway Patrol

Commissioner Harold H. Graham, Ontario Provincial Police and

the FBI Representative to the Executive Committee, William L. Reed,  
Federal Bureau of Investigation.

I felt it important to mention each of these men individually because of the important developments that have occurred in the past year which each of these men have contributed greatly.

Since our last regional meeting in 1973, there have been some personnel changes. I would like to recognize each of the new administrators this time. Florida Department of Law Enforcement - William A. Troelstrup; Georgia Department of Public Safety - Colonel J. Herman Cofer; North Carolina - Commissioner Boyd Miller and Colonel E. W. Jones; Oklahoma - Commissioner Roger Webb and Lieutenant Colonel Jerry Matheson.

#### IV. Executive Committee Activities

As many of you know, the Executive Committee of the Division of State and Provincial Police has in prior years served in an advisory capacity to the Law Enforcement Assistance Administration. This has provided us with an opportunity to meet with LEAA officials and to discuss those issues which are important to the state law enforcement agencies as well as the Law Enforcement Assistance Administration.

As you know in 1973 there was a change of administrators at LEAA. The previous administrator, Jerris Leonard, resigned his position and Mr. Donald Santarelli was appointed as Administrator of LEAA during the early part of 1973. Mr. Santarelli met with the members of the Division of State and Provincial Police during our Annual Conference in San Antonio, Texas, in September of 1973. At that time he expressed an interest in maintaining the advisory capacity of the State and Provincial Division Executive Committee. As a result of that expression, a letter was forwarded to Mr. Santarelli through Mr. Clarence Coster's office requesting that a series of meetings with LEAA officials and the State and Provincial Committee meeting be established for 1974. This letter was transmitted in December of 1973 and unfortunately there has not been any response to date.

On March 6, 1974, our Executive Committee met in St. Louis, Missouri. We discussed the issue of our relationship with LEAA officials and the consensus of the Executive Committee was that we should continue to pursue future meetings with the Administrator of LEAA.

Several other important issues were discussed during our meeting, but rather than go into detail as to each of these issues let me just touch on the highlights.

We reviewed the Police Physical Standards Concept Paper which was submitted to LEAA by the IACP Staff. This was a project that Mr. Santarelli encouraged us to submit to LEAA during our meeting in San Antonio last year. After review by the Executive Committee the members elected to approve the concept, however, a motion was made that when a final proposal is submitted that the S & P Executive Committee be allowed to review and endorse that proposal prior to submission to LEAA. In the interim the Executive Committee passed a resolution supporting the IACP in their efforts to obtain funding from LEAA for the Police Physical Standards Project and further supporting actual field testing in selected police agencies of our Nation, as necessary to validate the findings of the Police Physical Standards Project and further requested that the various mandates by individual directing authorities to indiscriminately hire people for police work without hiring standards being first validated be stayed until appropriate studies have been completed and cogent hiring standards are produced from the results of such studies and field tests.

The next issue for discussion was the National Law Enforcement Telecommunications System. The members reviewed new rules being promulgated by the Federal government and current hearings relating to criminal justice information systems which include proposals that the Federal government assumes control of NLETS. The members of the Executive Committee,

through official action and unanimous vote, strongly opposed current proposals which suggests that the Federal Bureau of Investigation or any other Federal agency take control of the National LETS System. In addition the members supported the concept that the Federal Bureau of Investigation maintain control and operation of the computerized criminal history system including message switching capability as it relates to that system. These issues of opposition and support were transmitted to the Attorney General, to the Administrator of LEAA, House and Senate Judiciary Committees, and to the President and Vice President of the United States.

Our discussions then centered around some existing policies of IACP, specifically the present system of voting and election of officers. After considerable discussion, the members supported any concept which will support a more equitable representation of IACP membership in the general activities of the Association. As a result a motion was made and passed unanimously requesting Mr. Quinn Tamm to direct IACP staff to develop a system to provide broader representation of IACP in the voting process and specifically requested Colonel John Plants to direct the feelings of the State and Provincial Executive Committee to Mr. Quinn Tamm.

In addition to these issues the Committee was informed by State and Provincial Staff as to the status of the Comparative Data Report for 1974, the Regional Conferences for 1974 and the on-going Management Career Development Program.

I will not go into further detail in discussing these issues for I have asked our Division Director to fill you in on the status of each of these programs.

In concluding the meeting of the Executive Committee, the members discussed the Annual Meeting of the Division of State and Provincial Police to be held concurrently with IACP's Annual Conference in Washington, D. C., in September of 1974. We currently expect to conduct a meeting of the S&P Executive Committee on Saturday morning, September 21 which is the first day of the conference week. The Annual Meeting of the Division of State and Provincial Police will be conducted in the afternoon of that Saturday, September 21, 1974, and during the morning of Tuesday, September 24, 1974.

**END**

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