

GOVERNMENTAL STRUCTURING OF CRIMINAL JUSTICE SERVICES - ORGANIZING THE NON-SYSTEM - SUMMARY

NCJRS

SEP 9 1977

CONTENTS

ACQUISITIONS

Pages

	ABSTRACT	ii
	FIGURES AND TABLES	viii
	PREFACE	x
	ACKNOWLEDGMENTS	xvii
	SUMMARY	xviii
	ABBREVIATED REFERENCES	xxxv
CHAPTER 1	THE CRIMINAL JUSTICE SETTING	01
	The Basic Service Components	03
	The System-at-Large	05
	The View from Below	10
	Federal, State and Local Roles	17
	Money and Manpower	20
	Crime and Criminals	23
	Sanctions and Penalties	27
	Criminal Justice Reform Concepts	30
	Rediscovery of the System	35
	The Structural Reform Proposals	37
	The Study Commissions and Reform Groups	40
CHAPTER 2	ISSUES AND BUILDING BLOCKS	53
	American Diversity - Tradition and Fact	56
	Executive-Judicial Separation of Powers	58
	Elective Criminal Justice Officials	61
	Government Reorganization and Criminal Justice Coherence	63
	Tension Between Criminal Justice Components	65
	Bureaucratic Limitations and Inefficiencies	67
	Central Operation versus Central Regulation	69
	Local Government Viability	72
	Local Government Fiscal Pressures	77
	Private Sector Roles in Service Delivery	79
	Outside Monitoring and Accountability as a Counterbalance to Unification	84
	Structure as One Determinant of Organizational Design and Effectiveness	90
	Discretion in the Criminal Justice System	94
CHAPTER 3	POLICE SERVICES	105
	<u>Current Structure and Scope</u>	106
	Organization and Dimensions	106
	The Police Function	109

45736

MICROFICHE

	<u>Pages</u>
State Law Enforcement Roles	109
State Police Agencies	111
Metropolitan Police Activity	113
Large City Forces	114
Urban Policing Dilemmas	116
County Level Policing	119
 <u>The Structural Issues</u>	 121
Small Departments	121
Metropolitan Police Service	124
Large Department Decentralization	126
The First Full Department Conversions	129
 <u>The Reform Proposals</u>	 134
President's Crime Commission	135
Advisory Commission on Intergovernmental Relations	136
National Advisory Commission on Criminal Justice Standards and Goals	138
American Bar Association and Committee for Economic Development	142
Decentralization Proposals	144
Financing Proposals	147
 <u>Analysis</u>	 149
Special Nature of Police Localism in the Criminal Justice Structure	150
Lack of Empirical Data on Wisdom of Proposals	152
Accountability as a Structural Reform. Factor	156
Theoretical Disagreement on Value of Consolidation	157
Can Small Units be Consolidated?	159
Should Small Units be Consolidated?	163
Should Larger Forces be Consolidated?	165
Fiscal Effects of Consolidation	168
Can Large Departments be Decentralized?	169
Fiscal Effects of Decentralization	171
Prognosis for the Future	173
 CHAPTER 4 COURTS AND THE JUDICIARY	 183
 <u>Current Structure and Scope</u>	 185
General Organization	188
Appellate Courts	189

	<u>Pages</u>
Courts of General Jurisdiction	190
Courts of Limited and Special Jurisdiction	191
Juvenile Courts	193
Ancillary Organizational Characteristics	194
Court Administration and Administrators	195
Judicial Councils and Conferences	197
The Court Rulemaking Power	198
Judicial Selection and Qualifications	199
The Unified Court System	202
Court Financing	206
Court Personnel	208
<u>The Reform Proposals</u>	209
Roscoe Pound, National Municipal League and Early ABA Proposals	210
President's Commission on Law Enforcement and the Administration of Justice	213
Advisory Commission on Intergovernmental Relations	215
National Advisory Commission on Criminal Justice Standards and Goals	217
American Bar Association Commission on Standards of Judicial Administration	219
<u>Analysis</u>	224
The Bona Fides of Unified State Court Systems	224
Simplification of Structure	229
Separate Courts of General Jurisdiction and Limited Jurisdiction	232
Centralized Supervision	234
Procedural Rulemaking	236
Unification and Court System Leadership	237
Management, Innovation, Quality Control and Monitoring	240
Large Multi-Judge Courts	241
Decentralization and Court Unification	243
Judicial Selection and Court Unification	246
Federal Courts and Their Impact on Structure	248
Financial Impact of Court Unification	250
Unification and Court Operational Problems	255
Conclusion and Prognosis for the Future	258
CHAPTER 5 PROSECUTION SERVICES	269
<u>Current Structure and Scope</u>	271
Profile of Structure and Organization	271
Development and History	277

	<u>Pages</u>
<u>The Structural Issues</u>	281
State Coordination or Control of Prosecutive Functions	281
Full-Time Prosecutors Versus Localism in Prospective Endeavor	286
Subsidiary Issues - Grand Juries, Local Division of Function, Elective Status and Removal	289
<u>The Reform Proposals</u>	293
Wickersham Commission	294
Commissioners on Uniform State Laws	295
President's Crime Commission	296
American Bar Association	297
National Association of Attorneys General	299
Advisory Commission on Intergovernmental Relations	301
Committee for Economic Development	302
National Advisory Commission on Criminal Justice Standards and Goals	303
National District Attorneys Association	306
<u>Analysis</u>	309
Three Basic Models	309
Central Administration	310
Regulatory Model	316
Collegial Model	320
Money and Funding	322
Jurisdictional Size	323
The Large Prosecution Offices	325
Conclusions and Prognosis	331
CHAPTER 6 DEFENSE SERVICES	344
<u>Current Structure and Scope</u>	345
Methods for Delivery of Defender Services	345
Development of Defender Services	352
National Profile	355
<u>The Structural Issues</u>	362
Centralization - State Versus Local Defender Systems	362
Regionalization - The Part-Time Defender	368
Funding, Manpower and Selection Issues	371
Organizational Locus for Defender Services	374
Large Office Structure and Decentralization	378

	<u>Pages</u>
<u>The Reform Proposals</u>	380
President's Crime Commission	381
American Bar Association	382
Commissioners on Uniform State Laws	383
Advisory Commission on Intergovernmental Relations	384
National Advisory Commission on Criminal Justice Standards and Goals	385
National Legal Aid and Defender Association	386
National Study Commission on Defense Services	388
The Thrust of the Reform Groups	389
 <u>Analysis</u>	 391
Character of the Defense Function	391
An Organizational Management Perspective	393
Funding Considerations	394
Hierarchy Versus Standards	395
Problems of Bar Commitment	396
Maintaining a Private Sector Option	396
A New "Freedom of Choice" Structure	398
Some Conclusions	399
 CHAPTER 7	
CORRECTIONAL SERVICES	407
 <u>Current Scope and Structure</u>	 410
National Profile	411
Correctional Components - Probation and Community Treatment	411
State and Local Institutions	416
Parole and Aftercare	421
Evolution of Correctional Functions	423
Current Fragmentation	426
Correctional Financing	428
Ambivalence on Goals and Alternatives	430
 <u>The Unification Proposals</u>	 431
American Correctional Association	434
American Law Institute - Model Penal Code	436
National Council on Crime and Delinquency	439
President's Commission on Law Enforcement and Administration of Justice	440

	<u>Pages</u>
Advisory Commission on Intergovernmental Relations	441
National Advisory Commission on Criminal Justice Standards and Goals	442
ABA-IJA Juvenile Justice Standards Commission	445
Juvenile Justice Task Force-National Advisory Committee	447
Commissioners on Uniform State Laws	448
 <u>Analysis and Assessment</u>	 451
Adult-Juvenile Unification	454
Institutional-Field Services Unification	458
State-Local Institutional Unification	461
Parole Decisionmaking	464
Pretrial Services and Diversion	467
Decentralization of Unified Corrections Systems	470
Community Integration and Delivery - The Minnesota Model	474
Regional Administration - The Florida Model	476
Governmental Placement of Unified Systems	479
The Case Against Correctional Unification	481
A Decade of Reorganization Examined	484
Conclusions and the Future	488
 CHAPTER 8 INTEGRATING THE TOTAL CRIMINAL JUSTICE SYSTEM	 501
 <u>Planning and Coordination Mechanisms</u>	 502
President's Commission on Law Enforcement and Administration of Justice	503
Advisory Commission on Intergovernmental Relations	504
National Advisory Commission on Criminal Justice Standards and Goals	506
Planning Under the Federal Crime Control Act	509
National Planning Network	512
The State Planning Agencies	514
Comprehensive Written Plans	516
Local and Regional Planning Efforts	520
Continued Dominance of the Planning Mode	521
Fiscal Incentives as a Coordinating Mechanism	524
Recent Assessments -- ACIR and CSG	527
 <u>Integration Through Structural Change</u>	 535
The State Government Reorganization Movement	536
Lack of Criminal Justice Involvement	539

	<u>Pages</u>
The First Justice Groupings	542
Feasibility of the Integrated Justice Agency	545
Locus Within State Government Structure	548
Prosecution and Police Involvement	549
Integration and Judicial Independence	551
Components of the Integrated Department	553
Administrative Unification of Components	556
Assistance to Local Agencies	557
Gubernatorial control	558
Implementation Techniques	560
Avoiding New Bureaucracy	561
Decentralization of Integrated Agencies	563
Integration at Local Government Levels	564
The Case Against Structural Unification	567
 <u>Summary</u>	 570
 CHAPTER 9 THE FUTURE OF CRIMINAL JUSTICE UNIFICATION	 581
The "Challenge" Paper	581
The Local Government Crisis: Fiscal Developments	585
The Law Enforcement Crisis: Structural Developments	587
The Standard-Setters	590
Implementation of Structural Reform	592
Decentralization and Local Integration	600
The Skeptical Scholars	602
Where to Now?	606

LIST OF FIGURES AND TABLES

	<u>Pages</u>
1-1 Governmental Service Expenditures - Fiscal 1974	21
1-2 State-Local Criminal Justice Expenditures - Fiscal 1975	22 •
3-1 Municipal Police Departments of Over 500 Sworn Employees Implementing Citywide Team Policing	133
4-1 State Court Organization	188
6-1 State Defender Systems	357
7-1 Responsibilities for Correctional Functions in the United States	427
8-1 State Criminal Justice and Public Safety Departments with Jurisdiction Over More Than One Major Component of the Criminal Justice System	547
8-2 Justice Umbrella Agency Organization - Multnomah County and State of Kentucky	568

PREFACE

This book is about the organization and structure of criminal justice services within the American federal system. While the subject has attracted the attention of virtually every national study commission and professional standard-setting group to look at crime control and law enforcement in our society, instances have been rare where the intellectual searchlight has focussed on structure and organization alone. Depending on how well the job is done, that may be the special contribution of this work.

The years have yielded a liturgy of structural reform for criminal justice agencies, usually sandwiched in and serving as part of larger bodies of recommendations on how to control crime or improve police, court and correctional functions. Most of these have called for greater centralization, unification or coordination of services which ~~under the American scheme of government initially assumed,~~ and continue to maintain, a much more local and fragmented character than in other Western nations. It seemed time to the author to collect these proposals in one place, compare them, reflect on similarities, differences and evolution, and then relate and measure them against concepts of criminal justice mission and technology, bureaucratic organization, federal structure, public finance and governmental responsiveness.

First, some of the author's assumptions and biases in

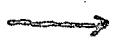
producing the study should be shared. If not apparent from the nature of the work, they will soon become so as the reader moves ahead:

Structure is Worth Studying. When questions of social need and policy^{have been} resolved with respect to a class of government services, the rules, systems, organizations, people, money and other resources necessary to deliver them must be set in motion. It seems fair to observe that among the greatest government failures in achieving contemporary social goals, whether involving human services, justice, or physical well-being, has been the inability to deliver them on a large scale to intended citizen beneficiaries. Ideas, targets, models, and prototype programs have generally come easier than the crushing task of making quality services available not to the few, but to the masses who make up government's clients. Structure is an integral part of government and its technique for day-to-day performance of functions. It is not the only ingredient for transforming policy into action, and can take many forms; but certainly it merits attention in our complex social fabric.

The Criminal Justice System is a Proper Study Focus.

A decade ago, it would have been problematic to suggest that a functional grouping of police, court and correctional institutions as part of a larger "criminal justice system" was a rational way to approach a structural analysis of those

functions. First of all, such a system was non-existent, or at least barely visible, in terms of the normal indices by which we define systems. Then, too, weren't courts constitutionally set apart from executive functions like police protection and custody of offenders? Didn't correctional services fall more naturally within social service systems to help deviant, disadvantaged or deranged citizens than law enforcement groupings? The concept of a criminal justice system wasn't talked about and the label itself was rarely used.

In the sixties, however, crime became a major national issue and an object of unprecedented study. Those concerned with criminal justice became sensitive to and embraced, at least in theory,  the concept of an interrelated, interlocking criminal justice system as the proper arena (short of amelioration of economic and social disadvantage) for dealing with crime and public safety problems. Many called the collection of criminal administration functions a "non-system" but the effect of each component's actions upon the others, regardless of longstanding operational and psychological autonomy, and their common and unseverable linkage to the criminal offender, became manifest. While police, judges, prosecutors, defenders, and penal administrators needed to be studied in terms of their respective organizations, mission and history, the goals they served made it logical to view these functions together as well.

Structure Alone is no Answer to the Crime Problem.

No contention is made that the reduction and control of crime, or the efficient administration of criminal justice and law enforcement, can be achieved through structure. Structure is a tool for decision making, coordination and service delivery and, in tandem with other important ingredients (funding, leadership, political priority, social equity) can help facilitate or optimize the implementation of soundly conceived governmental programs. Our criminal administration institutions are in place, have their marching orders, and are expected to proceed with some effectiveness -- or, at least, to proceed. One, therefore, cannot avoid the organizational and structural options. Viewing the internal and as well as external forces which seem so often to immobilize the criminal administration apparatus, it hardly matters that organization cannot alone answer the challenge to perceive the value of laying bare its strengths, dysfunctions, and potential for improving performance.

No Single Structure Contains All the Answers for the Criminal Justice System. This is not only complex organization "chic." It is political reality and has important values for our federal and democratic society. The most rational and "modern" organizational structures for court, police, prosecution, correctional, and indigent defense systems can and often do attract the same frustrations, overload and impotency experienced by less exquisite systems. More

important, our federal society nurtures differences in size, outlook, and approach which can justify a variety of workable structures of quite different cloth (although our capacity to afford sloppy or ill-conceived designs seems to be diminishing rapidly) provided they are well administered and attention is paid to vulnerabilities, and human, managerial and resource needs.

Greater criminal justice unification is generally desirable if it responds to the differential characteristics of system components and to decentralization needs. This proposition is basically the message of the book and will be developed in detail in the analyses of each system component to follow. It suffices here to point out that (i) state leadership and authority is seen as the focal point for unification efforts and (ii) unification is conceived as a mix of heirarchical, standard-setting, regulatory, monitoring, coordinative and fiscal incentive measures, tailored to the special character and mission of each major criminal justice component and applicable at regional and metropolitan as well as state levels.

The design of the book is rather simple. Commencing with a chapter descriptive of the criminal justice setting (apparatus, finances, workload, service targets, structural patterns), the text moves on to an exploration of key issues and problematic characteristics inherent in either the criminal justice apparatus or the American governmental framework which bear on structural schema. The two intro-

ductory chapters are followed by units on each criminal justice component (police, courts, prosecution, defense, and corrections) which explore and evaluate current organizational characteristics, reform proposals, and directions of change, each ending with speculations on desired or future courses of development. A penultimate chapter discusses total system integration, with focus on (i) the dominant integrative technique for this period ("comprehensive planning" as molded by grant-in-aid policy under federal crime control legislation) and (ii) exploration of possibilities for structural or umbrella department integration at both state and local levels. A final chapter serves as a recap of precept and progress with respect to criminal justice "unification" (in each individual component and the system-at-large) and a prognosis for the future.

One special confession is ⁱⁿ order, in part revealed by the focus of the concluding chapter. Ten years ago, the author, heavily involved in development of the block grant experiment under the Omnibus Crime Control and Safe Streets Act and witness to the accompanying federal-state-local tension, confusion and overlap in criminal justice activity, emerged as a vocal supporter of large increments of consolidation throughout the system. This experience gave rise to the one-year study fellowship that produced this volume and it could easily, in title and thrust, have emerged as a book on criminal justice unification. In large

part, that is what happened, if only to deal with the unification bias in conventional wisdom on criminal justice structure. However, the sixties and seventies have been watershed periods, generating new balances and accommodations in our federal system and seeking to address not only problems of rationality, efficiency and order in service delivery but also respond to dysfunctions of governmental remoteness and bureaucracy.

Accordingly, attention has been accorded to values of decentralization, conscious fragmentation, community delivery, and operating unit autonomy in addressing proposals for consolidation, central regulation and standard-setting, and stronger coordination mandates in the various criminal justice arenas. Hopefully such concerns have been accorded proper visibility and, to some extent, reconciled persuasively with unification doctrine and technique. The reader, however, will note obvious ambivalence in dealing with perennial public policy issues such as centralization versus decentralization and uniform policies and standards versus local discretion and autonomy in service delivery. The excursion, in this respect, was a difficult one, its frustrations heightened by a sense of the shifting emphases and continuing dynamic requiring differing focuses and authority structures for different periods of institutional and political development in the nation's quest for public service effectiveness and equity.

* * * * *

ACKNOWLEDGMENTS

This study is a product of a busy one-year sabbatical as a Visiting Fellow of the Justice Department's National Institute of Law Enforcement and Administration of Justice. A fellowship program within an operating grant-in-aid bureaucracy (even one directed to research endeavor) is no small challenge. Special appreciation is owed to Institute Director Gerald Caplan and the fellowship program team, notably Richard Barnes and Winifred Reed, as well as a remarkably understanding Institute staff, for capturing the flavor of an academic "think tank" program and translating it quite neatly to the imperfect setting of the 8th floor Justice Department outpost which houses the program. The ever-present Caplan and Reed encouragement, generosity and support were beyond any call of duty and will be long remembered.

The author was also fortunate in attracting the services of an extraordinarily gifted person, Darris H. Plumb, for the essential task of typing and manuscript preparation. Mrs. Plumb's speed, thoroughness and efficiency were indispensable to this effort. Sandwiched as they were between the responsibilities of an active family life and numerous personal interests, her contribution emerged as a real tour-de-force.

Acknowledgements are due to a number of colleagues and authorities who took time to review and critique portions of the book and to an even larger group of individuals and organizations who were generous and prompt in furnishing

data, perspectives, and documents throughout the author's fellowship period. The latter are too numerous to mention and the former included such friends as Patrick Murphy, Sheldon Krantz, Richard McGee, Jack Foster, Joan Jacoby, Allan Ashman, Patton Wheeler, Carl Stenberg, John Conrad, Nancy Goldberg, Robert McKay, Norman Carlson, and Russell Wheeler. None of these individuals, of course, can claim a whit of credit for any omissions, errors, or false reasoning harbored within its covers.

The author is delighted to conclude his acknowledgements with a typographic bow to a superb family -- Shirley, Debby, Glen, and Mike -- who deftly accommodated the pressures, occasional isolation and inevitable change of lifestyle (or at least working hours) occasioned by the author's transition from program administrator to would-be scholar and who, with their many other acts of love, helped put to bed this "raisin in the sun."

Summary and Findings

The past decade has witnessed an extraordinary series of national study commission analyses and reports on improvement of criminal justice administration. Some have offered comprehensive sets of priorities, recommendations and standards for improvement of all aspects of crime control activity. In virtually every formulation, there have been recommendations and standards related to unification, consolidation and integration of criminal justice agencies and services. In large part, this was a response to the fragmentation, duplication and lack of coherence in criminal justice administration which was brought to national attention by the President's Commission on Law Enforcement and Criminal Justice in 1967 ("President's Crime Commission") and further highlighted in the early 1970's by such distinguished urban problems analysis groups as the Advisory Commission on Intergovernmental Relations ("ACIR") and the Council for Economic Development ("CED") as well as the important standard-setting products of the 1973 National Advisory Commission on Criminal Justice Standards and Goals ("NAC").

The NAC effort, most recent of the comprehensive study Commission probes, represented the entry of the federal government's major crime control assistance program (i.e., that launched under the Omnibus Crime Control and Safe Streets Act of 1968) into the intellectual leadership arena. By many, this was seen as a response to criticism that LEAA was evolving as an uncritical dispenser of large quantities of federal funds without adequate guidance to states and localities on how resources, time and effort could best be deployed for the improvement of criminal administration. NAC was sponsored, financed and the "brain child" of the Justice Department's Law Enforcement Assistance Administration ("LEAA").

The structural recommendations of the President's Crime Commission, ACIR and NAC spanned all components of the criminal justice system -- courts, police, corrections, prosecution and defense. They included such proposals as:

- unification of correctional facilities and services in statewide correctional service departments.
- unified, state-financed judicial systems under central state administration and supervision.
- statewide organizations or councils to provide technical assistance and support to local prosecutors.
- state-financed and/or administered defender systems.

- consolidation of small police departments, state provision of certain support services, and combination of police services and functions through techniques ranging from full merger through shared support functions and contract service arrangements.

The descriptions and analysis of this study place a searchlight on the structural recommendations of the study commissions and of national professional associations such as the American Bar Association, National Association of Attorneys General and American Correctional Association -- a relatively rare undertaking in the criminal justice literature. Although the years have yielded a liturgy of structural reform for criminal justice agencies, these have usually been sandwiched in with larger bodies of improvement concepts covering manpower, programs, operating procedures and management policies -- and not without reason. Structure needs to be integrated with the goals, techniques and substantive programs of governmental service systems. Nevertheless, and particularly with the past decade's focus on the agencies of criminal justice as an interlocking, interdependent system (often despairingly called a "nonsystem") it is believed that value and understanding may be gained from excising, comparing and reflecting on the structural issues and proposals that have been presented for each major criminal justice component and the total system.

In focusing on organization and structure, no claim is made that this provides the key to the nation's profound crime control problems or that there are single or simple solutions or models for our diverse, pluralistic government structure. Indeed, the traditional and still prevailing reform approaches, dating back to the pioneering work of the Wickersham Commission in the early thirties, have been to call for greater measures of centralization, consolidation and coordination -- a prescription bound to cause uncertainty in an era where the values of decentralization, local decisionmaking, competition in "public goods" markets, and "smallness" are being urged as an answer to the often shocking mediocrity and diseconomies of large-scale bureaucracy. Whatever the case, government cannot proceed without choices as to structure and organization. It is an "indispensable" to service delivery and, for that reason, worthy of special attention.

Key Issues and Building Blocks in Structural Analysis

In assessing criminal justice structure and charting paths for improvement, it is valuable to consider special characteristics, dilemmas and problems within American government and our criminal administration institutions that bear on organizational planning and redirection. These concerns range from problematic criminal justice characteristics (e.g., executive-judicial separation of powers, elective law enforcement officials, discretionary accommodations, inherent system tensions, private sector roles) through

general public administration issues (e.g., federal system diversity, local unit viability, government reorganization trends, mounting fiscal pressures) and organizational and bureaucratic quandaries (limits of hierarchy and the structural contribution, central administration versus central regulation, system accountability and monitoring).

America, for example, is a portrait in contrasts for criminal justice structures, one painted by fifty "sovereign" state governments with independent lawmaking and law enforcing powers. Virtually every level of variation, centralization and decentralization imaginable can be found in some state or region with respect to most components of the criminal justice system. This does not mean that movement toward higher levels of central standard-setting and control may not be desirable but rather that such change must be translated into the diverse contexts and preferences that exist within the federal system and will preclude the neat, clean and uniform patterns achievable by more centralized national governments. Then, too, the executive-judicial separation of powers is a "given" of the American system and will prevent full structural integration of judicial with other criminal justice apparatus.

Elective criminal justice officials predominate in some criminal justice areas (judges, prosecutors, attorney generals) and this will remain a barrier to the merging of criminal justice agencies into larger departments, districts or administrative structures. Moreover, the past decade has witnessed a massive movement toward state government reorganization and simplification of agency structure. In the same way that elective offices complicate unification schemes, the state government simplification movement may facilitate them, encouraging the bunching of functionally related activities such as those comprising the criminal justice complex in common administrative structures.

There are those, however, who espouse the necessity and desirability of separateness and healthy tension between criminal justice components. This goes beyond the executive-judicial separation of powers and is seen most clearly in the adversary orientation and conflicting mission of the prosecution and defense functions. Such forces, of course, encourage administrative and structural independence rather than integration. Also, our nation has learned, in many instances quite painfully, of the limitations and inefficiencies of complex, hierarchical bureaucratic structures. Thus, despite the theoretical nicety of integrated and effective criminal justice systems, the bureaucratic costs and distances created by unification and consolidation initiatives may frustrate goals of cooperation and coherence, although criminal justice agencies, even when combined, produce much smaller complexes than the large bureaucracies which have arisen in other governmental service areas such as health, education, transportation and human services.

A fundamental issue in the achievement of "equal justice" and reasonable uniformity and consistency in criminal justice service delivery is whether services should be centrally directed or centrally regulated. In some areas, the trend is toward central operation (courts and corrections) and in others, reform efforts have focused on central standard-setting, monitoring and regulation (e.g., police and prosecution). What really exists are varying mixtures of these two techniques and often similar results can be achieved under either mode.

To a large extent, criminal justice reform, especially in regard to the smallest units and jurisdictions, is tied to the problem of local government viability. The part-time prosecutor and the one-man police force is often part of a local government unit that is too small to adequately meet responsibilities in a number of areas, not just criminal justice. The reform options include small government consolidation (normally highly resistant to change) or transferring responsibilities to larger governmental levels, i.e., state control or the establishment of district or regional agencies that encompass more than one governmental unit. Then, too, local government fiscal pressures are mandating shifts in criminal justice responsibility -- both operational and financial. Unified court and correctional systems relieve local governments of growing fiscal burdens but also assume central policy direction. At the other end of the spectrum, state fiscal relief for criminal justice can be provided through subsidies, equalization payments and grants without altering local control and responsibility for operations.

Although criminal justice functions are perhaps the most closely associated with direct governmental operation of all public goods and services, a surprising growth in private sector delivery of criminal justice services has taken place. This is already quite pronounced in the police area (the private security industry is now about as large as public policing), is growing in corrections, has always been with us in the indigent defense area, and with the new stress on non-judicial dispute settlement, threatens to occupy a prominent role in minor criminal adjudication.

With what appears to be an inevitable push toward greater centralization of criminal justice services, new monitoring and accountability mechanisms will be required. These are needed as an external check on inefficiency, non-responsiveness and over-bureaucratization. Fortunately, much experimentation is in evidence in criminal justice and government in general, ranging from ombudsman, direct advocacy, monitoring and internal inspection mechanisms to "sunset" legislation and "sunshine" decision-making. Such counterbalances will help insure the success of structural integration efforts for criminal justice. Also, the past generation has shown much development in complex organization knowledge, demonstrating that structure is only one determinant of

organizational effectiveness and that factors such as leadership, internal communication, reward systems, decisionmaking styles, task complexity and environmental factors shape organizational performance as much and perhaps even more than hierarchy and structure. The important lessons are that criminal justice structure does not have to carry the total load in maximizing organizational performance, that a variety of structures can be equally effective if designed to address basic organizational needs, and that structure and hierarchy can even be de-emphasized under certain conditions.

A final issue in structural analysis is the enormous and pervasive role that discretion has played in the criminal justice system. Virtually all reform studies have called for narrowing and better articulation of the ground rules for exercise of discretion. To the extent that this need is met, new levels of local autonomy and decentralization in criminal justice can be tolerated without the dangers of unacceptable disparity and discrimination in the administration of what should for all levels of society be a relatively uniform and equal administration of criminal justice principles and functions.

Police Services

Current thinking and activity offers little evidence of abandonment of the American tradition of localism in police service delivery. Today the police service is the largest, yet most localized and fragmented of all criminal justice components (in some degree and because of its character, justifiably so), consisting of nearly 20,000 separate and independent public agencies most of which operate at municipal levels and carry manpower complements (less than 10 sworn officers) incapable of providing basic patrol capability to communities served. Indeed, the hold of the "consolidation" concept advanced by several national commissions as a precondition to greater police effectiveness and professionalism seems to have weakened rather than strengthened over the past decade. Nevertheless, the nation seems headed for a period of:

- reduction of small police forces in favor of areawide units or larger municipal departments, based for the near future primarily on interlocal policing agreements rather than municipal mergers or legislatively mandated service consolidations and limited to bringing one-man or few-man departments into economically supportable small units (10 to 20 officers) capable of meeting minimum patrol, investigation and service standards;
- greater state regulation of local police activities, building on the state selection and training standards

that have arisen and grown in enforcement power since the sixties;

- enhancement and "evening out" of local police capabilities through increased state support services and mutual cooperation/facilities agreements within metropolitan areas (covering, primarily, training, laboratories, communications, information systems and major and special crime investigation units);
- decentralization as the privilege of all communities, including large city neighborhoods, through team policing techniques which organize larger forces into geographically-based and largely self-managed units capable of meeting most police service needs of communities served (now operative in several major cities);
- impelled by the dual pressures of small unit consolidation and large police agency decentralization, a "coming together" of structure of rural, suburban and inner city police forces as service units within these aggregations either grow or shrink to deal with defined communities in the 20,000-50,000 population class.
- an increased county government role in meeting police service gaps in sparsely settled rural and suburban areas with adequate aggregations of budgetary and manpower resources to address direct and auxiliary service needs but an important upgrading mission in professionalizing previously inadequate elected sheriff and county police operations.

This is a moderate and attractive agenda for the organization of American police services and yet, if achieved, will amount to a virtual revolution in the structural polyglot that has evolved from historic tradition and the pressures of runaway urbanization. There is something here for all philosophical persuasions, a recognition of the still blooming renaissance of state government leadership in the federal system, a preservation of police localism with some polishing of the "rough edges" of both smallness and bigness, and equally important, a retention of options for more pronounced movement toward centralization or decentralization as we learn what works best for responsive police service in America's third century.

Court Services

The concept of the unified court system offers a simplicity

of organization and authority that seems well-suited to the justice function, to enhanced public accountability, and to coping with the increasing complexity and functional challenges facing judicial systems. After years of advocacy, the pace of reorganization toward unification models seems to have reached new highs and that trend promises to continue and intensify.

Much of court unification, under virtually all proposed standards, is built on a structure of hierarchical authority but, within that structure, coordination and decisionmaking options are many. The task of court unification, then, if it is to heed the lessons of bureaucracy and growing public antipathy toward all-powerful, all-directive central government, is to build in a bias toward decentralization of decisionmaking; toward review and monitoring rather than direct administration of field operations; toward reasonable field level participation in policy formulation, administrative rulemaking and budget development; and toward significant field level autonomy in management of personnel, procedures, facilities and experimentation with new service techniques. Concededly, this bias will operate within the framework of central rules and regulations and subject to central supervisory authority; but the very existence of such authority should call forth a counterbalancing "set" necessary to assure that the unified system justifies its expanded powers both as to constituent units and as to other branches of government.

The reform proposals leave much room for better analysis, differentiation and models on how central authority is to be used, how local participation is to be maximized, and where autonomy and decentralization can be productively utilized. This may be the major task over the next generation of a unification movement that is close to achieving basic and long sought goals of substantial central authority and simplified structure in all states, i.e., finding an effective "water level" and set of techniques for operating the superstructure well.

Prosecution Services

Over the past generation, prosecution has exhibited more structural stability and less structural change than any criminal justice component. This is certainly true in relation to the courts, corrections, and indigent defense. It probably also applies to the police function, where state police forces have taken on huge support roles for local police agencies and virtually every state has seen the emergence of at least some measure of central manpower oversight through the police training and standards commissions.

Indeed, the nation shows little taste for change in the organization of its prosecution systems. While some measure of

part-time office consolidation seems possible and is gaining momentum, there is little prospect that the majority of states with independent local prosecutors will consider switches to the central administration model or, indeed, that those few states which directly administer prosecutive services will abandon their patterns. Yet, the need continues for better coordination and more equal application of prosecutive power and practice. The case has been made too well, for too long and by too many voices.

Pay dirt will have to be found, if at all, in optimization of "central regulation" and "collegial" approaches to improved prosecutive organization rather than central state direction. In this regard, the traditional wisdom of the study groups seems attractive. State-wide standard-setting, removal machinery beyond impeachment and recall, authority for emergency intervention, and central inspection, audit and evaluation functions seem hardly likely to erode the nation's penchant for professional independence in prosecutive work. This has not happened in the centralized federal and state systems now in operation. Moreover, the local prosecutor has too many leverages -- professionalism, on-site presence, elective status, legislative definition of function and practice -- for even a complete installation of this array of oversight and coordinative mechanisms to significantly intrude upon day-to-day prosecutive work.

The broad thrust of these coordination, supervisory and accountability controls seems, moreover, to have attracted a wide base of acceptance. The critical issues appear to be not their core validity but rather "how much," "who controls" and "what measure of local participation." For example, if there is to be some kind of emergency intervention or supersession power when a local prosecution becomes tainted with corruption or incompetence, can the attorney general proceed on his own initiative or must the governor or local authorities so request? If local prosecutors can be removed "for cause," what is the scope of "cause" beyond physical incapacity, corruption and gross dereliction? Is this to be judged by a court or a state governor or an attorney general or by a commission of peers, and what hearing rights are to be recognized? If state-wide prosecutive policies and guidelines are to be established, will they be obligatory, presumptively applicable or optional? Will they be established by an attorney general, an attorney general collaborating with a group of local prosecutors, or solely by a council or association of local prosecutors? Will the policies be enforceable and subject to discipline for clear violation? If state financial assistance is needed for local prosecution, should it carry state budget controls and review or "no strings" subsidies?

The regulatory model suggests a stronger role for the attorney general (or a special state prosecution director) in the

design of these mechanisms and, probably, the prospect that they will be regularized, used and applied by the central authority. Its deficiency is political weakness and the hostility of local prosecutors, even where care is taken to feed local input into major decision points.

The collegial model (i.e., local prosecutor self-regulation) can achieve an equal measure of regulatory "tightness" if formalized in a legislatively-established and financed state office as recommended by some of the studies. To do this, however, requires enormous self-discipline on the part of prosecutors and their willingness to exercise oversight authority as a body once policies and standards are determined. The approach can be flawed at the outset by an inability to agree on coordination measures, state-wide standards and accountability devices that all will accept. In a way, the supervising attorney general versus collegial approach parallels the old reform dialogue on the relative merits of the judicial councils versus a strong chief justice for court system oversight. At present, and contrary to the judicial scene, the collegial approach appears to be in the ascendancy (nearly half the states have produced state councils or offices managed by local prosecutors) but has yet to progress beyond the "mutual support" or "technical assistance" stage to one of self-oversight and active policy leadership.

Central supervisory controls over prosecution activity seem to be clearly needed -- controls going beyond legislation and court rules and which recognize the importance of local independence and flexibility in prosecutive endeavor -- but central controls, nevertheless. Whether the standard bearer is a state chief law enforcement officer or a collegial, self-regulating prosecutor's association will make a great difference in what is done, how it is done and where the philosophical balance will lie. With all other branches of law enforcement gravitating toward more unified and coordinated postures and considering the vital position occupied by the prosecutor, the outcome should be critical to the shape and effectiveness of the total criminal justice system.

Defender Services

Experience since the American Bar Association's "local option" approach (i.e., local choice on use of assigned counsel or public defender systems) has suggested the need and advantage of central state-wide defender systems for nearly all states. It would be presumptive to suggest that satisfactory delivery of defense services could be accomplished through only one approach or model but the state-wide system seems unavoidable, if only to arrange for adequate financing, and offers the flexibility of various degrees of control and cognizance over local operations to preserve desired state approaches to local autonomy and dominance in provision of defense services. Thus, it is believed that:

- Every state should establish a state-wide defender system through which the costs of defender services are provided, rational districting or regionalization for delivery of defender services is planned, general policies and administrative procedures are prescribed, and standards of quality and performance are monitored. The state system can emphasize normal hierarchical control or an administrative support, standards, and monitoring role depending on the state's approach to and conception of state and local government roles.
- Local defenders within the state system should be accorded considerable autonomy in day-to-day administration and professional operation and should play a real role in evaluating and formulating new policies and performance standards.
- Full-time defenders should be available in virtually all jurisdictions.
- Coordinated assigned counsel systems should be built into or harmonized with existing defender systems.
- Local contracting for defender services from non-profit private organizations, bar groups, etc. should be an acceptable alternative to civil service staffing.
- Appellate work, because its character is distinct from the trial work that occupies the bulk of defender office effort, can be efficiently centralized in the state defender agency, although larger local offices might well support their own units, coordinated as to policy matters, with the state defender office.
- The state defender agency should not be located in the judiciary but may be administratively housed within a state justice department or public advocacy department provided it has the statutory status and freedom of any independent agency in other than budget review and administrative areas. Where state political structures permit, completely independent agency status may be preferable.

Until the variegated defense machinery of the nation is pulled together into accountable state delivery systems, however loose or tight in configuration, it would seem difficult to set the defense

component on a productive course in meeting its overwhelming mandate and extraordinary opportunity. Defender system unification is as important as court unification for much the same reasons and may be distinguished from the elements of and pressures for local responsiveness that may militate toward different treatment of prosecution and police functions. Its realization could also make a larger contribution to better balance and coordination within the overall criminal justice system.

Correctional Services

Too much theoretical movement and reform wisdom in the criminal justice area suggests greater measures of correctional unification for the mandate to be ignored. Indeed, events of the past decade and further acceleration in the mid-seventies indicates that reorganization to this end has become a priority of lawmakers, executive branch chiefs and correctional leaders themselves. If properly appreciative of organizational knowledge, it may hold the key not only to administrative accountability, control and efficiency but provide a more rational basis for effectively decentralized operations and achievement of corrections "trump card" in offender treatment -- community-based corrections.

While governmental structure can never be a substitute for public commitment, adequate resources, effective leadership and well-trained personnel, it may well serve as a facilitator of what corrections needs so desperately to achieve -- comprehensive, integrated and flexible programming and service delivery. As such, the unified state corrections department, embracing all correctional functions on either a direct administration or regulatory basis and properly organized for local participation and regional service delivery merits attention. Similarly, to the extent that correctional activities and departments must be placed within larger functional groupings in state and local government, it is suggested that the state "criminal justice" umbrella agency may have as much and, perhaps, more to offer than the state "human services" or "institutions" department which now reigns as the most common locus for correctional system activities.

Notwithstanding, "diversity" has been a central force and descriptor for all American governmental service systems and in corrections, the most fractionalized of all criminal justice components, there is little reason to expect that it will disappear in favor of some homogeneous model. While more unification seems inevitable, major correctional components will continue to remain distinct in some systems, the problem of inclusion of corrections in larger functional groupings will continue to yield different answers, and the community locus so essential to correctional service delivery will assume a variety of administrative shapes. Within this reality, the future should show more of the following:

- a continuing movement toward consolidation of both traditional and new correctional responsibilities at the state level, with perhaps slowest progress in the local jail area;
- a reexamination of continued inclusion of correctional functions in large human services superagencies in favor of (i) unified and independent corrections departments (themselves approaching adequate size to command cabinet status in modern executive structures) or (ii) placement in criminal justice or public safety parent agencies;
- a drive toward integration of correctional services at substate levels with focal points in (i) regional groupings (possibly coextensive with developing state regions for general urban service delivery) or (ii) at more decentralized county-focused levels;
- correctional administrative structures which, because of their multifunctional scope, can more readily absorb the sharp program, manpower and financial regroupings which seem an inevitable part of the correctional future (e.g., abandonment of parole, deinstitutionalization in the juvenile area, splitting of pretrial detention and misdemeanor confinement, subordination of rehabilitative purpose and programming, and increased use of private sector service delivery);
- more explicit choices among options of (i) standard-setting, subsidization and monitoring or (ii) direct service administration, depending on state size, inclinations and decentralization needs;
- clearer executive and legislative prioritization, for good or otherwise, as a concomitant of collective budgeting and rationalization of correctional programs;
- enlarged dependence on outside or independent monitoring, inspection and ombudsman mechanisms to oversee impact and performance of correctional agencies; and
- organizational designs that respond to structural weaknesses with corrective coordinating mechanisms and can readily adapt rules, roles, resources and decisionmaking to changing correctional philosophies and tasks.

Today, the nation seems to be entering a watershed period in correctional purpose and technology with some idea but also much uncertainty as to the precise shape of change. In that stance, the utility of the old bromide about "form following function" takes on special significance. Hopefully, the emerging and suggested "forms" will serve the new "functions" well and show sufficient resilience to do likewise with future waves of reform wisdom.

Total System Coordination

Despite general agreement about the need for better interfaces, resource allocation and cooperation between criminal justice functions, the record of serious and organized effort at coordination (apart from the host of local, not unimportant, accommodations always in motion at line levels where courts, police, prosecution and corrections do daily business) is neither very extensive nor very old. It has developed largely as a product of the past decade and of the national studies, policies and developing system overload that marked that period.

The picture on efforts to better coordinate component parts of the criminal justice system looks something like this:

- Comprehensive planning, backed by federal funding incentives, has been viewed and used as the major technique for harmonizing, coordinating and meshing the activities of the major elements of the criminal justice system -- police, courts, prosecution, corrections and defense.
- Theory and technology have become increasingly specific as experience with planning has progressed. In terms of structure, state, regional and local planning/coordinating units have all been viewed as necessary and important elements of the planning strategy (with regional and local mechanisms tending to be combined in large metro areas) and an extensive bureaucracy of professionals and agencies has arisen to operate this structure. In terms of scope and "clout," official planning missions are beginning to expand beyond federal aid programming to cover total system operations, to attract legislative and quasi-line status, and to be reinforced by "minimum standards" criteria.
- Coordination strategies are rapidly expanding beyond the strict confines of planning as common information systems, educational/training programs, and integrated regulation of system components by legislative bodies receive recognition and visibility as valuable coordinative devices.
- Direct consolidation or centralized supervision of criminal justice functions has largely been ignored as a coordinating mechanism, partly because of the constitutional separation of powers, partly because of the fractionalization of law enforcement between state, county and local government, partly because

of legitimate needs for autonomy of certain components vis-a-vis others, and partly because recent consolidation of state government functions has tended to place criminal justice units in other governmental service groupings (e.g., police in public safety departments and corrections in human services departments).

- Experimentation with central criminal justice administration (i.e., the integrated department of criminal justice), at either state or local levels, would seem valuable in view of the potential contribution that a common structure can make to coordinated service delivery and because of the frequent inability of voluntary coordination efforts to achieve adequate service integration. The difficulties of such centralization are real and call for attention to a host of issues such as appropriate levels of decentralization and freedom of action among system components. However, use of the full range of coordinative techniques from planning through central supervision may prove helpful for the difficult task of bringing the "nonsystem" of criminal justice together and assuring fuller achievement of its crime control mission.
- All of these trends are more advanced as ideas, concepts and reform wisdom than driving forces of criminal justice activity at the delivery level and recent studies show considerable lag between planning and coordination concept and actual system performance.

How "integrated" an integrated system should be remains an unknown. Theoretically, it is possible to combine responsibility for state police services, correctional services, prosecutive oversight, defender system management, local jail and police standards implementation, criminal justice training functions, and criminal justice planning/coordination responsibilities in a single state departmental structure. No states have achieved this and only a handful have approached it by combining several functions in one parent department. At the local level, similar action is even rarer and, in many ways, more difficult. The quest for greater integration, however, would seem indispensable to obtaining needed answers and insights on the importance and value of greater measures of total criminal justice system unification.

Prognosis for the Future

A "consolidationist" might well take satisfaction from the past decade's record of progress on criminal justice unification.

The doctrines of unification have been reinforced, taken on some sophistication, and attained an unprecedented degree of implementation in several criminal justice components (most notably courts, corrections and defense). This suggests that renewed dedication to the mission and message of unification, as articulated by study commissions and standard-setters for the various criminal justice components, may be all that is needed in terms of structural improvement of the nation's criminal administration apparatus.

Yet, a new conventional wisdom has arisen -- one stressing decentralization, local participation and responsiveness -- which suggests that the unifiers may have devoted too little attention to the values of autonomy, local decisionmaking, and diversity within the criminal justice system. The concepts of central regulation, supervision and accountability that permeated the thinking of the study commissions remain essentially valid but, it is believed, require reexamination and a focus on methods of achievement which would stress the following:

- central regulation, standard-setting and monitoring rather than central management and service delivery in most areas,
- collegial participation and decisionmaking in development of criminal justice policies and administrative rules (especially involving the local, regional and field officials who must implement them),
- commitment to service unification and integration at local and regional as well as state levels,
- movement to central funding and resource allocation schemes where these promise a minimum level of service required to preserve the quality and equality of local justice administration,
- attention to effective decentralization patterns suitable to each of the various criminal justice functions, in some cases (particularly corrections), trading off functional for geographic integration in the process,
- as a subset of the previous principle, continued stress on elimination or consolidation of local agencies and service units which are too small to meet minimum service standards for the justice function (e.g., part-time prosecutor and defender offices, one-man or few-man police departments),

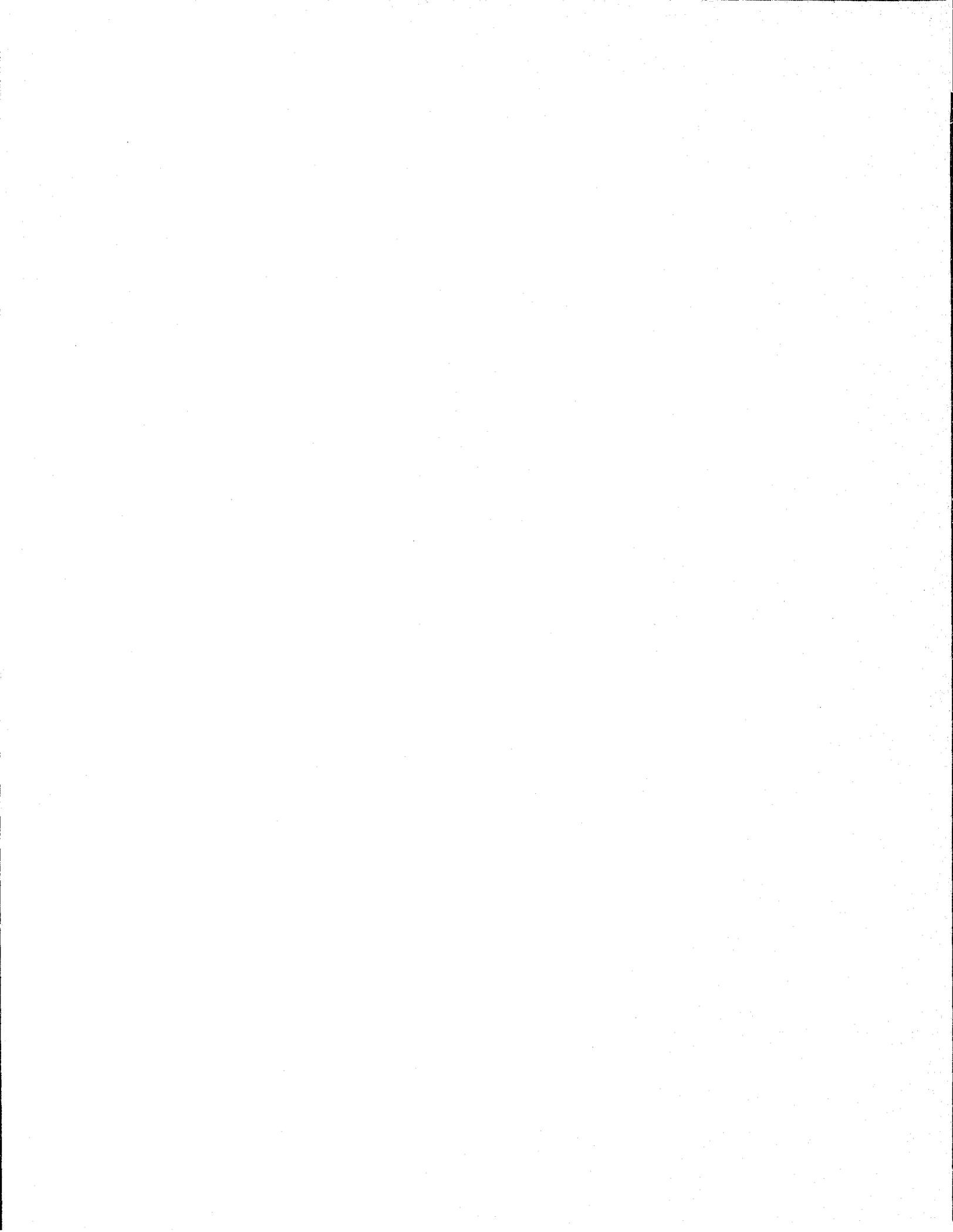
- recognition that within the diversity of the American federal system, prescription of simple or single models of structure and organization
 - is neither possible nor desirable and that centralization measures and a unification bias must, nevertheless, take into account political traditions, variations in size and demography, and modern organizational design technology,
- continued attention to central state agencies for each criminal justice function and, possibly, for the system as a whole (subject to separate judicial system identity) within the range of roles and values enumerated above,
- continued recourse to criminal codes, legislative regulation and constitutional principles, as a system mediator and tool to help achieve integration of criminal justice services and practice,
- continued recognition and use, along with structure and hierarchy, of such coordination and unification tools as planning, common information systems, subsidy-backed standards, and cross-system education and orientation,
- greater reliance, in addition to normal system tensions, on both inside and outside grievance, inspection, and client advocacy mechanisms to counterbalance the added authority and power of centralized administrative structures,
- a federal role as supporter of the foregoing concepts in its national leadership and grant-in-aid policies, preserver of national values and constitutional guarantees in the criminal justice arena, and maintenance of operational, coordinative and support capabilities not readily shouldered by state and local government.

Thus, the challenge of criminal justice coordination and unification is still with us, but its contours have broadened, grown more complex, and taken on an agenda of decentralization and local responsiveness that many thought might be resolved automatically with the advent of rational order, structure, and more central control.

Nevertheless, the healthy tensions of a multi-faceted criminal justice system and the desirable search for centers and matrices of responsibility at different points in our federal system do not

negate the values of unification, integration or large scale organization within the criminal justice system. Large scale organization in government is here to stay, if only to respond to large scale organization elsewhere. Our criminal justice apparatus already operates from a polity of 50 state centers rather than the national pyramid of other nations. In our urban centers, large budgets and large resource aggregations must be mustered and coordinated to address metropolitan and megalopolitan needs. Our criminal codes and protections are not fragmented, binding all state citizens, and our "separation of powers" may increase the need for reduction of fragmentation within component units to realize their potential for creative interaction with other components. Criminal justice unification, to the extent that it minds long visible lessons of American federalism and is conceived in terms of regulation, coordination, monitoring and support functions as much as direct central administration, remains an important organizational agenda for the criminal justice "nonsystem", both at state and urban levels.

Local criminal administration will be with us for a long time to come, but a balanced concept of state level unification and oversight can accommodate and be strengthened by that heritage and its seeds seem to be in the wind. Since the rediscovery of the criminal justice system in the mid-sixties, states have been moving noticeably toward centralization, sometimes impelled by larger currents of governmental organization and finance, often more actively in some criminal justice components than others, and usually with appropriate differentiation between them. Moreover, reform wisdom is letting go of older and less sophisticated concepts of simple centralization as the organizational answer for the complex criminal justice function. Given these dynamics and until that inevitable time when all pendulums must begin their contrary course, the future of criminal justice unification appears bright and has an important course to run.



END