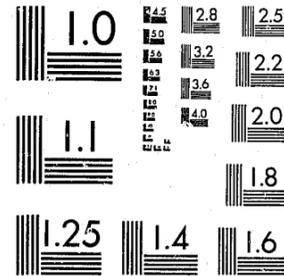


National Criminal Justice Reference Service



This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504.

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U. S. Department of Justice.

National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

Date Filmed

3/09/81

A RAND NOTE

THE IMPACT OF PROPOSITION 13 ON LOCAL
CRIMINAL JUSTICE AGENCIES: EMERGING PATTERNS

Warren E. Walker, Jan Michael Chaiken,
Anthony P. Jiga and Sandra Segal Pollin

June 1980

N-1521-DOJ

Prepared For

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

74602



Prepared under Grant Number 78-NI-AX-0155 from the National Institute of Justice, U.S. Department of Justice. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

A RAND NOTE

X
THE IMPACT OF PROPOSITION 13 ON LOCAL
CRIMINAL JUSTICE AGENCIES: EMERGING PATTERNS

Warren E. Walker, Jan Michael Chaiken,
Anthony P. Jiga and Sandra Segal Polin

June 1980

N-1521-DOJ

Prepared For

The National Institute of Justice,
U.S. Department of Justice

The Rand Publications Series: The Report is the principal publication documenting and transmitting Rand's major research findings and final research results. The Rand Note reports other outputs of sponsored research for general distribution. Publications of The Rand Corporation do not necessarily reflect the opinions or policies of the sponsors of Rand research.



NCJRS

DEC 29 1980

ACQUISITION

PREFACE

This Note presents some of the conclusions derived from a study of the effects of property tax limitation on the criminal justice system in California during the first year after the passage of Proposition 13. Although the study focused on the criminal justice system, most of the conclusions appear to be applicable to other functions of local government. The Note, therefore, identifies a number of general trends and patterns in local government in California that may have significant implication for the future, and it illustrates them with examples from the criminal justice system. It concludes with a discussion of trends and patterns that relate specifically to the operation and performance of the criminal justice system.

The contents of this Note will appear as parts of reports being prepared by Rand for the National Institute of Justice (NIJ). The NIJ supported the study on which this Note is based. Preparation of the Note was supported in part by The Rand Corporation. It should be of interest to a wide audience, including students and researchers in the fields of political science and public policy analysis; local, state, and federal government officials; and concerned citizens.

SUMMARY

During the first year after the passage of Proposition 13 we examined some of its effects on California's criminal justice system. Proposition 13 was a citizen initiative, approved in June 1978, that reduced property taxes by rolling back the taxable value of most property to its 1975 market value and reducing the tax rate from the previous year's average of 2.7 percent of value to 1.2 percent of value. If no compensating revenues had been found, Proposition 13 would have forced a 23 percent decrease in total expenditures of local governments. However, the state government bailed out local governments with funds from its large accumulated surplus, and local governments raised user fees and expended some of their reserve funds. As a result, local government expenditures increased slightly in the fiscal year beginning July 1978, but not as fast as inflation, so some cuts or adjustments were necessitated.

Our study produced a portrait of the changes that occurred in local criminal justice agencies* by means of interviews, analyses of budgets, and review of published sources. We selected four counties and three or four cities in each of the counties as targets of these data collection activities.

In analyzing and interpreting the resulting information, we concluded that few of the emerging patterns of governmental responses we observed were particular to the criminal justice system. For this reason, we have described these emerging patterns in a general context of changes in local government, illustrating the trends with examples from the criminal justice system.† Limitations of the study's scope

*County criminal justice agencies are: district attorney (prosecutor), public defender, sheriff, courts, probation, and--in some counties--planning or coordinating agencies. City criminal justice agencies are: police and city attorney.

†Detailed findings about impacts in criminal justice agencies are presented in a separate report: J. M. Chaiken, W. E. Walker, A. P. Jiga, and S. S. Polin, Fiscal Limitation in California: Initial Effects on the Criminal Justice System, The Rand Corporation, in preparation, 1980.

and methods prevent us from asserting more than that the trends described in the sections that follow are worthy of more careful attention and research.

Short-Term Solutions to Long-Term Problems

Most local governments got through the first year after Proposition 13 by making cuts that were largely invisible to the public. These cuts generally provided short-term savings, but higher costs are likely in the long run. Two examples of these types of cuts are:

- o Deferment of equipment purchases, new capital improvements, and maintenance of existing capital stock. Cutbacks such as these produce no visible harm during the first year or two. But then they lead to the deterioration of buildings, security systems, vehicles, etc. Replacement and repair of equipment that breaks down because it was not maintained generally costs more than the maintenance would have cost, especially if the value of wasted personnel time is considered--as when a police patrol car needs emergency repairs.
- o Reduction of expenditures on planning and research activities. Postponement of management information systems. These kinds of changes mean that data for effective problem identification, planning, and management are not available when needed, that new planning tools are not being developed or used, that talented personnel who could suggest long-term solutions are not being retained or kept knowledgeable, and that innovative responses to fiscal constraints are unlikely to be forthcoming.

Intergovernmental Relations

One of the most visible and immediate consequences of the passage of Proposition 13 was a change in the relative importance of the various sources of funds available to local governments. As the role of property taxes becomes less important, revenue from state government (and, to a lesser extent, the federal government) has a relatively larger influence on local government activities. Local officials expressed concern about

the threats to local autonomy and home rule posed by this trend. They believe it is unrealistic to expect the state to provide a large share of local government's revenues without exerting significant control over their allocation. In particular, local officials foresee that gross inequities built into current bailout formulas will not survive the test of time or challenge in court, and the state government will have to intervene to achieve greater equity. Currently, the state subsidizes sharply different levels of local government services based on what existed before Proposition 13.

Federal funds, in the form of targeted criminal justice grants, general revenue sharing, and Comprehensive Employment and Training Act (CETA) programs, were generally welcomed by local officials, although many expressed distaste for certain paperwork requirements or strings attached to such funds. The impact of Proposition 13 on the use of federal revenue-sharing funds depended primarily on how the revenue-sharing funds had previously been allocated. In one of our study counties, nearly half of general revenue-sharing funds had previously been devoted to community-based human service functions, such as halfway houses for released prisoners, drug abuse prevention programs, and the like. These were particularly hard hit after Proposition 13, when the county chose to apply federal funds to in-house governmental functions that otherwise faced cuts. In cities and counties where revenue-sharing funds had previously been spread widely, the impact was more diffuse.

Cooperation among local criminal justice agencies, for the purpose of achieving greater efficiency, was generally made more difficult by the bailout mechanism adopted by the state government. For example, only a complex series of contracts between cities and a county government could allow the county's sheriff's department to be compensated for taking over and centralizing the cities' crime laboratory functions.

Federal and State Mandates

A mandate is a requirement for a local government to perform some activity on behalf of national or state policy objectives. Mandates come in many sizes, shapes, and forms, including "strings" attached to grants, court orders, regulations, and legislation. We noted two

important consequences of mandates in times of fiscal contraction. First, most mandates are unfunded or significantly underfunded, and the cumulative weight of hundreds of mandates is a sizable burden on local governments. When the revenue for local governments is prevented from increasing to meet the rising cost of mandates, local officials face a serious problem of compliance.

Second, mandates have an important impact on the mix of services provided by local government. Basic services such as police patrol and criminal prosecution traditionally had strong local constituencies, and there was no need for state or federal governments to mandate them. Rather, the mandated activities were intended to be carried out in addition to traditional local government services. But we found that when budget cuts are required, mandated programs and functions remain while nonmandated programs and functions are cut. Local officials find themselves forced to undertake what to them seem to be low-priority activities.

Goals and Objectives of the Criminal Justice System

Fiscal limitations inevitably lead to a rethinking of what the criminal justice system should and should not do. We observed trends that we think portend a less humane and less responsive system. Agencies generally respond to reduced budgets (in real dollars) by shedding demand: they stop performing certain kinds of activities that they previously would have undertaken on their own initiative or at the request of a citizen or another criminal justice agency. District attorneys reduce the categories of offenses they will prosecute at all and cut back on original investigations into matters such as official corruption and consumer fraud. Police departments screen out reported crimes that are unlikely to be solved, concentrating investigative resources on the remaining crimes. Probation agencies pay less attention to supervision of persons under their charge and focus more on functions that are required by other parts of the system: providing presentence reports for judges, operating bail-release programs, and the like.

While some observers may welcome the increased efficiency implied by these efforts to focus resources, others may feel that the system is losing some aspects of humaneness that it previously showed toward arrestees, defendants, convicts, complainants, victims of crime, and citizens needing various kinds of assistance or reassurance.

ACKNOWLEDGMENTS

The information in this report is drawn in large part from over 60 interviews with persons who are closely related to California's criminal justice system--both inside government and outside. They will be listed by name and title in the final report of this project, but we would like to thank them here for agreeing to be interviewed, taking time out of their busy schedules to talk with us, and providing us with budgets, reports, and other data.

The issues covered in this study were developed with the guidance of an advisory panel, whose assistance we gratefully acknowledge. Members of the panel who met with us and offered suggestions were:

Duane Baker, Chief of Police
Glendale, California

Loren Enoch
League of California Cities

Jerry J. Enomoto, Director
California Department of Corrections

Timothy Fitzharris, Executive Director
California Probation, Parole, and Correctional Association

Ralph Gampell, Director
Administrative Office of the Courts, California Judicial Council

Lloyd Gieg
Genesis House, Vallejo, California

Harry Low
Judge of the Superior Court

Robert J. Maloney
District Attorney, Glenn County, California

Nathan Manske, Deputy Director
California Office of Criminal Justice Planning

Phillip Pennypacker
Deputy Public Defender, Santa Clara County, California

Pearl West, Director
California Youth Authority

Clifford Wisdom
Central California Criminal Justice Planning Board

At the National Institute of Justice, encouragement and support for this work was provided by Joseph Kochanski, Associate Director for Science and Technology, and W. Robert Burkhart, Director, Office of Research Programs. Within Rand, Stan Abraham provided constructive comments on an earlier version of this Note.

CONTENTS

PREFACE	iii
SUMMARY	v
ACKNOWLEDGMENTS	xi
Section	
1. INTRODUCTION	1
1.1. Proposition 13 and the State Bailout	1
1.2. Research Focus	2
1.3. Research Methods	4
2. SHORT-TERM SOLUTIONS TO LONG-TERM PROBLEMS	7
2.1. Equipment Purchases and Maintenance of Facilities .	8
2.2. Planning, Research, and Innovation	9
3. INTERGOVERNMENTAL RELATIONS	14
3.1. Local-State Relations	14
3.2. Local-Federal Relations	23
3.3. Relationships Among Local Government Agencies	29
4. FEDERAL AND STATE MANDATES	38
4.1. Cost	40
4.2. Impacts on Priorities of Local Governments	43
5. EMERGING PATTERNS IN THE CRIMINAL JUSTICE SYSTEM	49
5.1. Cost Considered in Court Decisions	49
5.2. Revision of Functions	50
5.3. Privatization	54
5.4. Quality of Justice	55
NOTES	57

1. INTRODUCTION

1.1. PROPOSITION 13 AND THE STATE BAILOUT

Proposition 13 was a citizen initiative, approved by the voters in June 1978, that reduced property taxes in California by amending the state constitution. The main provisions of the amendment follow.

- o The value of residential, commercial, and business property for tax purposes was rolled back to 1975-76 market values, except for property that was sold, changed ownership, or was constructed after 1975.
- o Property values were permitted to increase at no more than 2 percent per year to reflect inflation.
- o The total property tax on any property was limited to 1 percent of its value, except that additions were permitted to cover indebtedness previously approved by the voters.
- o Imposition of new or higher taxes (other than property taxes) was made more difficult.

Since the average property tax rate was reduced by more than half (from 2.67 percent in the year before Proposition 13 to 1.2 percent in the year afterward) and property values in 1978 were substantially higher than they had been in 1975, Proposition 13 reduced property tax revenue to California's local governments by an estimated 60 percent, or \$7 billion out of anticipated revenue of \$11.4 billion.

If the local governments had been forced to absorb this entire revenue loss, the impact would have been substantial--about a 23 percent decrease in their expected total revenue. However, the state government bailed out the local governments with a combination of two fiscal relief mechanisms that reduced their losses by \$4.1 billion. First, the state took over certain state-mandated expenses previously borne by counties. Second, it provided block grants to schools, cities, counties, and special districts. (See Note 1.)* The state's source of funding for the bailout was a large accumulated surplus whose

* Notes appear on pp. 57-61.

existence, together with confusing and erroneous predictions of its size, had contributed to the passage of Proposition 13.

Because of the state's bailout and increases in revenues other than property taxes, total California local government revenues actually increased slightly in the year after Proposition 13, and by drawing down on reserves, local government expenditures increased even more. However, after adjustment for the high rate of inflation, the average local government experienced a real loss in revenue. Moreover, the fiscal situation after passage of Proposition 13 stood in sharp contrast to the steady increase in real revenue to which many (but not all) local governments had been accustomed.

1.2. RESEARCH FOCUS

Because the fiscal effects of Proposition 13 on local government were small, at least in the short term, we did not expect to find major immediate changes in government services or in the impacts of those services on ultimate performance outcomes. This was especially true of the criminal justice system--the subject of our study (and the source of examples for this Note)--since the state bailout legislation had required a continuation in the level of police programs provided by recipients of bailout funds. (See Note 2.) Instead, we anticipated finding, and did find, trends and patterns that portend changes for the future.

The study paid particular attention to the following areas of change:

- o Patterns of expenditures and resource allocations. The types of agencies, programs, and activities that suffered the most or survived most completely in the wake of both budgetary changes and uncertainty about the future that followed the passage of Proposition 13.
- o Intergovernmental relations. The extent to which control over local programs shifted to the state and federal governments, and changes in the degree of cooperation among agencies--either agencies of different types (e.g., sheriff and district attorney) or agencies of the same type in different jurisdictions.

- o Innovation and efficiency. Enhanced or degraded climate for instituting major cost-cutting improvements.

Our detailed findings about each of these subject areas are presented elsewhere. (Note 3.) In this Note we present general observations from our research. While the data we have brought to bear, and nearly all of our examples, are drawn from the criminal justice system, we believe that many of the emerging trends identified here apply as well to other functions of local government. We cite related studies that suggest, either empirically or theoretically, the general applicability of some of our statements. In some instances we have speculatively mentioned trends that seem likely to arise, even though no clear evidence for them had yet appeared in our work or that of others. Limitations of the study's scope and methods prevent us from asserting any more than that the trends we see are worthy of more careful attention and research.

Generally, the picture is not an encouraging one. With some notable exceptions, we did not find local government grappling with resource-allocation problems and focusing expenditures on the highest priority activities. Instead we found:

- o Attempts to apply short-term solutions to long-term problems (discussed in Section 2).
- o A growing influence of the state and federal governments over local government activities (Section 3).
- o A growing conflict between local government autonomy and the mandates and dictates of higher-level governments (Section 4).
- o Changes in the goals and objectives of the criminal justice system (Section 5).

Before discussing the findings, we describe briefly the types of information collected for this study.

1.3. RESEARCH METHODS

The study was basically a wide-ranging reconnaissance effort, intended more to identify the major trends and consequences of fiscal limitation than to produce a comprehensive, statistically reliable portrait of changes throughout the state.

We selected for careful examination a small number of jurisdictions that we believed would display a wide range of representative responses to property tax limitation, in order to develop insights into the types of changes that were likely to occur. The jurisdictions selected for study included four primary counties (Alameda, Los Angeles, Kings, and San Joaquin) and two secondary counties (San Diego and San Francisco). Within each primary county we selected three or four cities as study sites, including the largest city, as listed in Table 1. (See Note 4.)

In all the study counties (whether primary or secondary), the research team tracked developments related to fiscal limitation through published sources such as newspapers, public opinion polls, and studies that were conducted locally. In the primary counties the project team carried out the following two additional activities:

- o Analyzed budgetary changes in the county government, in the countywide criminal justice agencies (district attorney, public defender, sheriff, courts, county clerk, probation, and any criminal justice planning or coordinating agencies), in the selected city governments, and in the city criminal justice agencies (police and city attorney).
- o Interviewed over 60 key people inside and outside the system (e.g., criminal justice agency administrators, private providers of diversion services, union leaders). The interviews were semistructured, following a detailed list of research questions within the various subject areas (resource allocations, intergovernmental relations, personnel, etc.). Not every topic was covered in every interview, but the interviewer's notes were transcribed into a uniform format that facilitated comparison of comments by different people

Table 1
PRIMARY STUDY SITES

County	City
Alameda	Oakland
	Fremont
	Piedmont
	San Leandro
Los Angeles	Los Angeles
	Compton
	Hawthorne
	Cerritos
Kings	Hanford
	Corcoran
	Lemoore
San Joaquin	Stockton
	Lodi
	Manteca

on a given topic. All the interviews were conducted during the fiscal year that followed passage of Proposition 13 (July 1978 to June 1979).

The discussion in the sections that follow draws on these budgetary analyses and interviews as well as on published data and reports that apply to other counties or the state as a whole.

2. SHORT-TERM SOLUTIONS TO LONG-TERM PROBLEMS

A shock to the local government system such as that provided by Proposition 13 can turn out to be either a crisis to be weathered with politically expedient changes in organization, management, and delivery of services, or an opportunity to make innovative changes in the system that would have been more difficult to implement without the shock. In fact, many people who supported Proposition 13 felt it would lead to less fat and more efficiency in government. This may yet be the long-term result, but in the short term we have seen a preponderance of the opposite effect: innovation and efficiency in local government have been stymied.

The years before Proposition 13 witnessed no dearth of creative responses by local government to their problems. However, during that period continued growth of the overall budget enabled local government to be innovative while avoiding hard resource allocation decisions. All services and functions could get more resources since the budget pie was expanding. Some hoped that the realities of fiscal contraction--tightened budgets, public scrutiny, and increasing costs--might change the patterns that had prevailed during budget growth, and force local governments to face the hard choices they had previously been able to ignore. This line of reasoning suggested that local officials might rethink their priorities, reexamine the way they allocate resources, and restructure their internal organizational and operational processes.

However, research such as that by Levine (Note 5) and Berman and McLaughlin (Note 6) suggests that political, organizational, and systemic obstacles are likely to prevent innovative management of contraction. An important conclusion of the research is that whether fiscal contraction leads to innovation and efficiency (and whether local government services deteriorate or not) depends primarily on the way in which government bureaucrats react to their changed reality.

Based on the first year's record in California, indications are that their responses are primarily being governed by Levine's "Tooth Fairy Syndrome:"

In the initial stages of contractions few people are willing to believe that the talk of cuts is for real or that the cuts will be permanent. The initial prevailing attitude in the organization will usually be optimistic; i.e., that the decline is temporary and the cuts will be restored soon by someone--in some cases as remote as the tooth fairy. . . . The preferred tactical response for nearly everyone is to delay taking action while waiting for someone else to volunteer cuts or for a bailout from a third party. (Note 7.)

In California after Proposition 13, the state government played the role of tooth fairy in bailing out local government. Local government expenditures had to be reduced in real terms (i.e., adjusted for inflation), but not by very much. As a result, most local governments got through the first year by taking what seemed to be the politically expedient route, making cuts that were largely invisible to the public. These cuts generally provided short-term savings, but might lead to higher costs in the long run. They were generally the opposite of what would have been needed to promote innovation and efficiency in local government. We discuss a number of these responses below.

2.1. EQUIPMENT PURCHASES AND MAINTENANCE OF FACILITIES

Deferring equipment purchases and maintaining facilities in good repair offer prime examples of short-term savings that are likely to increase long-term costs. Because the consequences of these actions are not immediately visible, they are tempting candidates for spending cutbacks.

Although expenditures budgeted for FY 1979 by California counties increased by over 12 percent over actual FY 1978 expenditures, budgets for property management (which include custodial services, maintenance, and remodeling of facilities) declined by 0.5 percent. (Note 8.) Los Angeles County, for example, planned to delay building maintenance and alterations, and to cancel the scheduled replacement for all nonemergency county vehicles. (Note 9.)

Cutbacks such as these may be able to be carried out for a year or two without much harm. But they quickly lead to the deterioration of buildings, roads, parks, etc. Replacement and repair of equipment that breaks down because it was not maintained will generally cost more than the maintenance would have cost. The long-term implications of this strategy are visible in some of the older cities of this country, where the deterioration of their capital plant has been one significant factor in their loss of appeal both to business and to more affluent populations.

2.2. PLANNING, RESEARCH, AND INNOVATION

Another "invisible" way in which local governments reacted to Proposition 13 was to reduce expenditures on planning and research activities, to postpone the development and implementation of management information systems, and generally to shun all innovative approaches to management that have high front-end costs. As is the case with deferred equipment purchases and facility maintenance, this approach produces short-run savings, but is more costly in the end. It is a reflection of what Levine terms "The Productivity Paradox":

When dealing with productivity, it takes money to save money. Productivity improvement requires up front costs incurred by training and equipment expenses. Under conditions of austerity, it is very difficult to find and justify funds to invest in productivity improvement, especially if these funds can only be made available by laying off employees or failing to fill vacancies. (Note 10.)

For example, the Los Angeles City Attorney cut his staff in the planning and research division by more than 50 percent. He explained that it was a question of weighing alternative risks. The potential costs of reducing the planning function are great, but "in the scale of priorities it is more important to prosecute than to plan programs."

In some cases the hesitancy to implement new systems or procedures reflected reluctance to risk possible failure. However, the presiding judge of the Oakland Municipal Court predicted that even projects that would clearly result in long-term cost savings would not be adopted if there were substantial start-up costs. (See Note 11.)

In addition to cuts in planning and research functions, the budgets for data processing departments and management information systems were hard hit in FY 1979 or earmarked for substantial cuts in FY 1980. The rate of attrition for data processing personnel was also higher than for most other types of personnel, since opportunities for them were plentiful in the private sector and were looked upon as being more attractive in the post-Proposition 13 world. These findings correspond to the scenario postulated by Levine:

First, the most capable analysts are lured away by better opportunities; then freezes cripple the agency's ability to hire replacements; and finally, the remaining staff is cut in order to avoid making cuts in personnel with direct service responsibility. (Note 12.)

An example of the type of problem encountered through loss of data processing personnel was given to us by the presiding judge of the Oakland Municipal Court. He reported that, due to the high attrition rate in Alameda County's data processing department, maintenance of the county's defendant record and court calendaring system (CORPUS) had suffered, and planned enhancements had been deferred. In addition, the system's unscheduled down time had increased, which was having a disruptive effect on the activities of the municipal courts.

In the short term, aside from some disruptions in operating systems, costs in planning, research, and information system functions are reduced with no reduction in direct services to the public. However, these reductions mean that the data needed for effective problem identification, planning, and management are not available; that new planning tools are not being developed or used; that talented personnel who could suggest long-term solutions are not being retained or kept knowledgeable; and that innovative responses to fiscal constraints are unlikely to be forthcoming.

These outcomes are likely in spite of the fact that local government officials have become aware that they need better planning and budgeting systems for dealing with the problems presented by

fiscal contraction. For example, officials in the city of Los Angeles admitted that many of their workload and personnel problems in FY 1979 could have been avoided if they had had a better understanding of the process of attrition and its implications for budgeting and workload management.

Some changes in budgetary practices did take place in each of the counties studied. The changes made, however, were crisis-oriented--temporizing measures to permit rational decisionmaking by budget officers in the face of uncertain FY 1979 and FY 1980 revenues, rather than a means of making permanent improvements in the budgeting process or the financing of local government. In Oakland, for example, the city manager for the first time ranked all programs so that he could present to the city council a set of priorities for choosing budget reductions.

In our interviews we specifically asked about innovations and procedures to increase efficiency, but found very few. Those that we did find were generally minor and unrelated to Proposition 13, although its passage acted as a catalyst for the adoption and implementation of most of them. For example:

- o The cities in Kings County, together with cities in a neighboring county, inaugurated a self-insurance program for general liability claims that should result in a significant reduction in insurance costs.
- o In the Stockton Police Department, investigators are tape-recording their reports rather than writing them out.
- o The Alameda County Probation Department adopted a shortened presentence investigation form.
- o The Manteca Police Department eliminated some "unnecessary" internal reports and shortened several others.

Some proponents of Proposition 13 believed that the private sector could provide services more efficiently than the public sector, and they anticipated increased reliance on contracts with private firms for provision of governmental services. We found that fiscal limitation

did provide an impetus for at least experimenting with contracted services, but government officials have been very cautious about actually turning services over to the private sector. For example, in Los Angeles County the board of supervisors sponsored and the voters approved a charter amendment that permits certain types of contracts with private firms, but very few contracts have actually been awarded.

Contracts that survive the review process and are actually awarded tend to be unquestionably cost-effective. The following are typical examples of cost-cutting transfers to the private sector:

- o The city of Cerritos dropped its contract with the county of Los Angeles for sewer maintenance and contracted with a private firm for the same services at a much lower price.
- o Two private credit collection agencies are under contract to the Los Angeles County Department of Health Services to collect delinquent bills. (Note 13.)
- o Numerous contracts have been awarded for maintenance of landscapes, parks, and recreation areas.

However, many recommendations for contracts related to the criminal justice system were unsuccessful. For example, the Los Angeles County Contract Services Advisory Committee recommendation that the county should contract with private firms to provide protection for its facilities and buildings was not adopted. Functions included in criminal system budgets but peripheral to the system's operations may be more amenable to contracting. For example, in Los Angeles County a probation department proposal that a private food vendor take over food services at its juvenile hall may be accepted.

Some instances of budget reduction appear to bring about nearly automatic increases in dependence on the private sector, but if they are not cost-effective they tend to be short-lived. For example, as workloads of the public defender increase, additional cases are assigned to private counsel for defense. If the fees offered to the private attorneys are lower than the cost of the public defender (as happened

in Kings County), then the quality of indigent defense may be unacceptably low, leading to a need to reverse the situation. If the fees are high, the reduced budget for the public defender's office does not actually save costs overall, a matter that is readily observed in the next budget cycle. After the passage of Proposition 13, Los Angeles County cut the number of budgeted positions in the public defender's office by 36. The next year's budget showed a restoration of 26 of these positions, accompanied by a statement that "the cost for these positions will be more than offset by . . . avoidance of the need for court appointment of private counsel at a high cost to the County."

Overall, our interviews seem to substantiate the fact that innovation and efficiency in local government have come upon hard times. This may be a temporary phenomenon that resulted from the uncertainty surrounding continuation of the state's bailout of local government. If so, stabilization of revenue sources--permitting projection of future revenue--could potentially reverse this situation. The political climate does not portend such stability in the near future, and California governments may have set themselves on a path that will make future innovation more difficult.

3. INTERGOVERNMENTAL RELATIONS

One of the most visible and immediate consequences of the passage of Proposition 13 was a change in the relative importance of the various sources of funds available to local governments. The role played by property taxes--the primary local source--became less important; revenue from state government (and, to a lesser extent, the federal government) began to play a larger role. (For example, state and federal sources accounted for 51 percent of Alameda County's budgeted revenues in FY 1978 and 70 percent in FY 1979.) Local officials are worried about the threats to local autonomy and home rule posed by this trend. (See Note 14.) Below we discuss general financial and operational relationships between the state and local governments, and between the federal government and local governments. The more specific issue of federal and state mandates is treated in Section 4.

Relationships among local governments, and among different agencies within them, have also been affected by Proposition 13. In many cases, interaction and cooperation have decreased. Debates and discussions about the consolidation of similar services being provided by different jurisdictions, and about the consolidation of agencies within a jurisdiction, have intensified. These relationships are treated later in this section.

3.1 LOCAL-STATE RELATIONS

3.1.1. Increasing State Influence

Although local government revenues showed very little change between FY 1978 and FY 1979, the relative contributions of the various sources changed dramatically. Table 2 compares actual revenues received by city and county governments in FY 1978 to budgeted revenues (after the state's bailout) for FY 1979. Total revenues were expected to decline by about 1 percent. However, property taxes, which had

Table 2
CITY AND COUNTY REVENUES BY SOURCE
(Millions of dollars)

Revenue Source by Recipient	Actual FY '78	Percent of Total	Budgeted FY '79	Percent of Total	Percent Change in Percentage
STATE					
Cities	514	9.8	815	16.0	63.3
Counties ^a	1,756	19.1	3,417	37.2	94.8
Total	2,270	15.7	4,232	29.6	88.5
FEDERAL					
Cities	1,118	21.3	1,087	21.3	--
Counties ^a	2,273	24.8	2,416	26.3	6.0
Total	3,391	23.5	3,503	24.5	4.3
PROPERTY TAXES					
Cities	1,177	22.4	526	10.3	-54.0
Counties ^a	3,358	36.6	1,467	16.0	-56.3
Total	4,535	31.4	1,993	14.0	-55.4
STATE + FED. + PROP. TAX	10,196	70.6	9,728	68.1	-3.5
OTHER SOURCES	4,238	29.4	4,555	31.9	8.5
TOTAL REVENUE	14,434	100.0	14,283	100.0	--

SOURCE: An Analysis of the Effect of Proposition 13 on Local Governments, op. cit., pp. 9, 10, 18.

^aIncludes San Francisco.

constituted over 31 percent of the revenues in FY 1978 were expected to contribute only 14 percent in FY 1979, a decline of over 55 percent in its share. The federal government's share was expected to increase modestly, while the state share was expected to practically double, from just over 15 percent to just under 30 percent.

Most of the local officials with whom we spoke believed that it would be very difficult for the state to resist greater involvement in local affairs following its increased role in financing local government. They held this opinion despite the fact that the actual interference in local programs during the first year following the passage of Proposition 13 was slight. All of the bailout funds were given to local governments in the form of "buyouts" (see Note 15) and block grants. A provision in the bailout legislation that was most bothersome to local officials--the elimination of cost-of-living raises for local government employees--was stricken by the Supreme Court.

The state increased its role in local criminal justice affairs only slightly. The major post-Proposition 13 state decisions that affected local criminal justice agencies were: (1) to give priority to funding public safety services; (2) not to "buy out" the courts; and (3) not to provide targeted funds for district attorneys, public defenders, or correctional programs. The requirement of the bailout legislation that public safety services be maintained at FY 1978 levels appears to have had little effect. The legislation provided no definition of "service level" and no enforcement mechanism, so we found reductions in both patrol and nonpatrol activities in police and sheriff departments.

The possibility of greater state control of agency operations in future years was of more concern to the people we interviewed than the degree of additional control that actually occurred in the first year following the passage of Proposition 13. The concern of those who feared greater state control in the future was based on what to them seemed two compelling arguments: First, they believed that it is unrealistic to expect the state--or any organization--to provide all or most of the funding for a particular purpose without exerting significant control over their expenditure. In short, experience shows that

power follows money. In the words of a university economist, "local control or home rule may become a thing of the past in California." (Note 16.)

The second argument is that, even if the state sincerely tries to minimize the amount of interference in local program decisions, it cannot avoid dealing with the question of how to make an "equitable" allocation of state funds to local agencies throughout the state. The allocations it might decide upon would invariably affect program inputs, which would in turn determine the latter's capabilities and achievements. So far, the state has avoided equity considerations by returning money to each local government in direct proportion to its lost revenues. As a result, since local governments had been providing sharply different service levels prior to Proposition 13, the state is now subsidizing these different levels of service. In fact, there are those who claim that the legislature has "rewarded the profligate and penalized the penurious." (Note 17.)

Carried to its logical conclusion, the push for equality would result in less variation of types and levels of services across jurisdictions. In the law enforcement and prosecutorial functions, for example, citizens of some counties might request a larger share of state funds to give them an equal degree of protection against criminal victimization. The argument by persons who foresee this result is that residents who previously received a level of service that matched their property tax rate (ranging from below 1 percent of market value to above 3 percent) are unlikely to accept a uniform tax rate unrelated to the level of service they receive.

In fact, some expect that the state's new relationship to local governments will lead to increased consideration of the equity issue that was raised with respect to school finance in the Serrano v. Priest court case (see Note 18); i.e., the inequity of spending differences between poor and wealthy jurisdictions. As one federal government official has said, "What Californians are beginning to call the 'Serranization' of education will occur in all services." (Note 19.) He points out that signs of Serranization appeared in the first year bailout legislation, which relieved counties of all financial responsibility for welfare payments (benefiting counties with depressed inner cities and impoverished rural areas most) and took the spending

rates of school districts into account in distributing funds for education (providing high-spending districts with 85 percent of their budgeted FY 1979 expenditures, and low-spending districts 91 percent of their planned outlays). He concludes, "Thus Proposition 13 will help equalize local spending as well as local tax rates and will provide a more equitable distribution of welfare and school services," (Note 20) and the California Department of Finance has observed "Political bodies may be pressured to provide equal services or lower taxes for low service level areas." (Note 21.)

In addition to the possibility of greater direct state involvement in local government affairs, Proposition 13 has had an indirect "spillover" effect. Although it contained no provisions that would limit the state's revenues, its passage had sent a clear message to the governor and the legislature that the public wanted to reduce the size and scope of government--state as well as local. As a result, cuts were made in the state's budget, which have already affected the relationships between state agencies and local criminal justice agencies.

Some activities that had been performed by the state were reduced or dropped. In some cases, the slack was picked up by local agencies, increasing their workload, and in some cases the activities were not replaced. For example, the California Highway Patrol (CHP) reduced its patrol of county roads and lesser-traveled state highways. One sheriff asked rhetorically in an interview whether he shouldn't be able to increase his patrol of the affected unincorporated areas in his county by the same amount of the CHP reduction (20 officers). The sheriff believes the loss of the CHP units will be noticed not only in the lessened enforcement of traffic laws, but also in the reduced deterrence to other types of crime due to there being fewer "black-and-white" cars on patrol.

Another impact of the state's retrenchment was that state agencies were not able to assist local government agencies as much as they had in the past. For example, one district attorney told us that because the state Attorney General was "strapped" for funds, he was less able to provide assistance in investigating official corruption and organized crime at the local level. This district attorney said his office had knowledge

of a potentially "very large" case of fraud that it was unable to act on without assistance from the Attorney General's office.

3.1.2. Concerns of Local Officials

Local officials with whom we spoke were practically unanimous in fearing greater control of their operations by the state. Some believed it possible to have increased state financial assistance of their agencies' functions without overbearing control, but these officials were in the minority. Pressure from local officials who feared increasing state control was a factor in the passage of long-term local government financing legislation (Assembly Bill 8) in 1979 that had even fewer restrictions on local programs than did the first year "bailout."

Even those who benefited from the restrictions in the first year bailout were concerned about a possible reduction in local control. For example, police chiefs did not overwhelmingly endorse the provision of the bailout legislation calling for the preservation of public safety services at FY 1978 levels. Sentiment favoring home rule was at least as strong as the desire of the chiefs to protect their budgets. A chief of police whom we interviewed stated this most colorfully: It is part of his job, he said, to convince the city council of the need for a certain level of police services. But if the council believes it is in the best interests of the city to fund the city museum, for example, at the expense of the police, that is the way it should be, even if the people then "have to shoot their way in and out of the museum."

Another worry of the local officials with whom we spoke was that the state government would be unable to take into account the wide diversity of local needs and desires when it enacts legislation providing financial assistance to local governments. The bailout legislation itself illustrates this problem. It attempted to take local need into account by reducing the allocation to cities and counties whose reserves exceeded 5 percent of their total 1977-78 revenues. One city in our sample, which had a policy of setting aside revenues for capital outlay in its general fund reserve rather than in a separate capital fund, was seriously affected by the allocation

formula. Other cities and counties may likewise have received less than their fair share of the state aid, due to local accounting anomalies.

Another example provided by the same legislation is that its allocation formula and its special provisions failed to account for differences in local growth rates. One police chief in a rapidly growing city told us that if the provision of the law relating to maintenance of public safety service levels were the sole means used to determine the size of his budget, the needs of the city would not be met because the growing population required more police services than the previous year's budget provided.

District attorneys, who are elected officials, are concerned that increased state funding will make it harder for them to offer the voters policies for fighting crime that are tailored to the local conditions. In the past, candidates for the office would lay out their policies during the campaign--each one placing different emphases on the various types of crime. As a result, district attorneys throughout the state exhibit a wide variety of prosecutorial policies, reflecting the varying concerns of their constituencies. In addition, there are different crime rates and different mixes of crimes among counties. Would the state attempt to develop a payment formula that would take account of these differences? Would it attempt to standardize policies? Or would it base the amount of the buyout on the size of past budgets, thereby avoiding direct consideration of policies and caseloads?

Unintended consequences might result if the state were to directly fund one or more criminal justice functions that are now locally funded, according to Lowell Jensen, Alameda County District Attorney. He suggests, for example, that local legislative bodies may tend to view requests from agency heads for supplemental local funding as being for nonmandated functions, and hence totally discretionary. This could have the effect of interfering with district attorneys' responsibilities to initiate their own investigations of matters not brought to them by the police (particularly white-collar crime, official corruption, and consumer fraud).

Several persons we interviewed were concerned that, since the state government is not knowledgeable enough about local criminal justice systems and there is no unified voice representing these systems, state financing and control decisions were likely to be made on an ad hoc basis, with no appreciation for their systemwide implications.

The FY 1979 state bailout provides an illustration of this problem. A survey by California's Department of Finance found that local government officials were concerned about the spillover effects of the maintenance-of-effort provision for fire and police services:

If the police activities had to be maintained, then so did those programs where workloads are determined in large part by the level of police activity . . . courts, public defender, district attorney, probation, and detention and corrections facilities. In the aggregate, such programs constitute a large portion of noncategorically restricted funds available to counties, and should county revenues fall, any prohibition on spending reductions will necessarily result in even larger reductions in other areas of county government supported by general fund dollars. (Note 22.)

Since the state will be making important decisions affecting local governments with increasing frequency, local government officials will be paying more attention to state political affairs and there will be more interaction between state and local officials. For example, many of the local criminal justice officials we interviewed had spent considerable amounts of time in the state capitol prior to the adoption of the first year bailout legislation. Professional associations as well as local criminal justice officials offered testimony on the anticipated consequences of various forms of aid to local government. Most were arrayed on the same side of the issue--trying to get as much state money as possible in the form of block grants for local governments. This led one public defender, whose testimony before a state committee agreed with that of the district attorney of his county, to comment that the response by local officials to post-Proposition 13 legislative proposals led to the association of "strange bedfellows."

3.1.3. State Responses Desired by Local Officials

While opposing greater control over local decisionmaking, most officials with whom we spoke nevertheless acknowledged the need for additional "permanent" revenue to replace the loss of property tax revenue. Coming up with an annual bailout was viewed as both unlikely and unacceptable, because of the great uncertainty imposed on local governments. Among those who expressed an opinion, most favored redistribution of the remaining property tax and changing the allocation of the state sales tax in such a way as to guarantee local governments a predictable source of revenue. (A long-term plan for local government financing along these lines was adopted by the state legislature in July 1979.) (See Note 23.)

Local government officials also hoped, but realistically did not expect, that the state would in the future pay full costs of new mandated programs, and would provide local agencies with the full amount of assistance that current law allows. On this latter point, two public defenders noted that a section of state law allows the state to pay up to 10 percent of the annual costs that counties incur in providing indigent defense, but actual payments have been much less. (The payment to Alameda County has never been more than 3 percent.) As part of his testimony before the joint committee of the legislature that drafted the bailout legislation in June 1978, one public defender recommended that the law be changed to require a 10 percent subvention.

There were two avenues for enlarging the state's involvement with the criminal justice system that drew some positive responses from local government officials: state buyout of the courts; and state takeover of the public defender's responsibilities. A buyout of the courts was recommended by the state's Commission on Government Reform. Its final report stated:

The commission recommends transfer to the state of full financial responsibility for the Superior, Municipal, and Justice courts, including judges, court administrators, court reporters, jury commissioners, court clerks, including clerks in the county clerk's office engaged in court work, and bailiffs, for the present retaining administration at the local level. (Note 24.)

As for indigent defense, it lacks a strong constituency at the local level. Unlike law enforcement, which has strong support at both the state and local level, political support for the continued viability of high-quality indigent defense is much stronger at the state level. This may partly reflect the fact that the values underlying high-quality indigent defense transcend local differences, whereas law enforcement agencies are organized to reflect the diversity in local values. It is understandable, therefore, that some public defenders with whom we spoke were not opposed to complete state takeover of their operations. One actually hoped for legislation that would authorize the state Public Defender's office to assume responsibility for the defense of indigents at the trial stage, while continuing to maintain its current obligation to handle appeals. As evidence of the lack of local political support for his office, he pointed to the movement toward contracting with private attorneys to perform some of his duties. Another public defender with whom we spoke stated that a properly administered local branch of the state Public Defender could do as good a job as his own office was currently doing.

A number of "good government" groups have bemoaned the fact that the state did not seek to effect comprehensive intergovernmental policy changes and structural reforms in response to the passage of Proposition 13. These groups argue that the state, like local governments, provided a short-term solution to the long-term problems of local governments in its bailout legislation. "Instead of seizing the opportunity to encourage restructuring and support the necessary planning and design work, the legislature merely provided enough replacement revenue to finance the current inefficient system." (Note 25.)

3.2. LOCAL-FEDERAL RELATIONS

Before 1960 there was very little direct interaction between the federal government and local governments. The federal government dealt with local governments through state agencies, if at all. However, Lyndon Johnson's "Great Society" and Richard Nixon's "New Federalism" changed this pattern. Large amounts of federal money now

flow directly to local governments. There are unrestricted general revenue sharing grants; HUD provides community development block grants; HEW provides grants for the educationally disadvantaged; the Department of Labor provides funds for employment and training under the Comprehensive Employment and Training Act (CETA) program; the Department of Justice, through LEAA, dispenses some of its grants directly to local criminal justice agencies. As a result, the passage of Proposition 13, which would have had little or no impact on local-federal relations before 1960, is likely to have important impacts now. In particular, it will affect the types of grants local governments seek, how they use them, and even the way cuts are made in local services.

3.2.1. Targeted Grants

Federal assistance can be provided in one of two ways: through general revenue sharing and through targeted grants. General revenue sharing funds are distributed by formula with few or no limits on the purposes for which they may be spent and few if any restrictions on how they are spent. The funds can be treated just like other general purpose revenues, such as those from property taxes and sales taxes. Targeted grants, however, must be used for more specific purposes, which are usually spelled out clearly before a local government receives such funds.

In the case of the criminal justice system, the most important targeted grants are those distributed by the Law Enforcement Assistance Administration under the Omnibus Crime Control and Safe Streets Act of 1968. We found that local criminal justice agencies have continued to apply for LEAA grants at the same rate as before the passage of Proposition 13. However, government officials felt that fewer programs would be continued after the LEAA funding ran out, and that some conditions of aid would be harder to comply with.

The executive director of one of the state's regional criminal justice planning boards said she was surprised that there was no decline in the number of applications in FY 1979 compared with the previous year. Two factors, she had thought, would affect the number of applications: (1) the inability of the Planning Board to commit funds for more than

one year, due to the expiration in 1980 of LEAA's authorization, and (2) the Planning Board's intention to focus on maintaining existing programs of merit, rather than creating new programs. She believes it usually is not cost-effective to provide funding of a new program for only one year. It takes at least three months to get a program under way, and often another three months before it is operating smoothly. Nevertheless, "quite a number" of applications were received for new programs.

One deputy police chief, reflecting the general attitude of local government officials, said that his department will continue to "vigorously seek the federal buck." A chief probation officer, who believes that "most [innovative] things have been tried" and that LEAA should, instead, supply funds for regular operations, conceded that he will nevertheless continue to "sell [his] soul to the devil" in order to obtain federal funds. Part of the reason that some will continue to seek federal grant money is that grant programs represent hope of positive change, no matter how slim or how peculiar the focus of the particular grant might be. More importantly, there are political pressures to seek the Federal grants, since they supply additional revenues to the city or county, even if only temporarily.

There was general agreement that fewer LEAA programs are likely to be continued when their funding runs out than have been continued in the past. This did not seem to bother local officials. They said it was standard practice before accepting a grant to make it clear, usually through a written clause in the contract, that the local government will not be under any obligation to continue the grant program after its expiration. We were told by several officials that only those parts of a program that meet local needs are continued, and then only to the extent local funds allow.

Nearly without exception, the criminal justice officials we interviewed have had one or more projects in their agencies that were at least partially funded by the Law Enforcement Assistance Administration. And also, almost without exception, these same officials expressed dislike for certain features of the grants. Most of their objections are well-known and long-standing, and have nothing to do with the

passage of Proposition 13. For example, many officials highlighted the gaps between the goals of federally funded grant programs and the needs of local governments. Some police officials in rural areas felt that LEAA programs tended to be much too oriented toward the needs of urban areas.

However, the heightened concern of local officials with the "hard match" requirements of LEAA grants is a direct result of Proposition 13. (See Note 26.) They claim that, because of hidden costs, the amount of local funds expended on a project always exceeds the 10 percent share assumed when the grant request is being developed. Such costs (e.g., for administering the grant and reporting on its progress) were more easily absorbed in pre-Proposition 13 days when there was more slack in the budgets of local agencies.

3.2.2. General Revenue Sharing

The General Revenue Sharing Act of 1972 initiated a program of unrestricted federal transfer payments to local governments. The size of the payment that a city or county receives under the program is directly related to the revenues the jurisdiction raises in local taxes. Thus, Proposition 13 could result in reduced revenue-sharing allocations to California localities. No reductions will occur until fiscal year 1981, however, since the data base used to determine the allocations lags by two years. Statewide, it is estimated that revenue-sharing grants would be reduced by \$70 million in FY 1981 if the program is reauthorized by the Congress in 1980 with no changes in the formula or funding level. (Note 27.)

As fiscal limits on local governments restrict the contributions of locally generated revenues to the general fund, the federal revenue-sharing contribution assumes a greater importance. The impact that this increased importance has on local programs depends to a large extent on how revenue-sharing funds were being used prior to fiscal limitation.

Most local governments had already been directing the bulk of their revenue-sharing funds to property tax relief (i.e., the funds were added to the general fund to pay for operating expenses). A few, including Alameda County, had earmarked significant portions of their

revenue-sharing grants for the support of new or expanded human-service programs. As a result of Proposition 13, these jurisdictions have switched funds over to substitute for lost property taxes, producing a serious funding problem for the human-service programs.

In FY 1978, Alameda County allocated \$7.3 million or 42 percent of its general revenue-sharing funds to human-service programs. Most of this amount was spent on contracts with 115 community-based programs. Twenty-five percent of the amount spent on community programs went to those labeled "public safety." In fiscal year 1979, the county cut its funding of human service programs by 16 percent across the board, and shifted the revenue to the general fund to substitute for lost property taxes.

The use of revenue-sharing funds to support community programs was initially lauded by community groups. Revenue sharing, they thought, represented a relatively stable and very visible source of funding, one which they could claim a portion of as being "theirs." Proposition 13 disrupted this situation by bringing to an end the policy of setting aside a large amount of revenue-sharing monies solely for such programs. Now, community programs in Alameda County and many other local jurisdictions must compete with all claims on the jurisdictions' budgets rather than competing primarily among themselves.

3.2.3. CETA

A major federal targeted grant program that cuts across practically all local government agencies is the Comprehensive Employment and Training Act program. Shortly after the passage of Proposition 13 the Congress enacted changes in the regulations governing CETA that compounded the difficulties local governments had to face in dealing with their reduced revenues.

The public service employment (PSE) portions of the CETA program have two primary goals:

1. To provide temporary jobs during a recession for otherwise unemployed workers.
2. To train the structurally unemployed or underemployed to make them more competitive in the marketplace.

Both goals imply short-term employment for relatively unskilled workers. However, the federal government had placed few restrictions on the use of PSE funds, which permitted local governments throughout the country to rely on CETA as a substantial and continuing supplement to local revenues. The goals of the program often had little bearing on local governments' use of the funds. The new federal regulations, which took effect on October 1, 1979, are intended to strictly limit use of CETA funds to employment of the hard-core unemployed. Although this change will hurt local governments throughout the country, its negative impact in California will exacerbate the effects of Proposition 13.

The new CETA earnings limit is \$10,000 per year; salaries generally cannot be supplemented above this amount, and the average annual salary for all CETA employees cannot exceed \$7800. Applicants must have been unemployed for at least 15 weeks, and the maximum duration of their CETA employment is 18 months. Under the old regulations there was no average salary limit nor maximum length of employment, and an individual employee's salary could exceed \$10,000 if the local government paid the excess. These regulations made it possible for some local agencies to employ professional employees for indefinite periods at salaries in excess of \$20,000. Now those local agencies in California that in the past had placed inappropriate reliance on CETA funding must make adjustments to the loss of that funding at the same time that local revenues have also been greatly constrained.

The impact on some public law offices, for example, has been considerable. The Los Angeles City Attorney's office has lost, or will lose, 53 of its 89 CETA positions due to the change in federal regulations. In the district attorney's office of another county, all but one of the attorneys hired in the three years before the passage of Proposition 13 had started as CETA employees. In the spring of 1979, 8 of the 24 attorneys in the office were still being paid partially through CETA funds. In that same county 12 of the 20 attorneys in the public defender's office were CETA employees before the new regulations went into effect. Both the district attorney and the public defender say they see now, in hindsight, that they placed too much reliance on CETA

funding, and used the program for the employment of persons it was never intended for. Attorney positions must now be paid for wholly out of the general fund or be cut.

The new CETA regulations have not pleased local government officials. For example, the Los Angeles City Administrative Officer (CAO) recommended to the City Council in May 1979 that the city should not accept the estimated FY 1980 allocation of \$90 million. (Note 28.) The CAO had two principal objections to the new CETA regulations. First, the regulations require that city CETA employees spend a considerable amount of time in formal training programs. This reduces the amount of time they have available for carrying out their work, and also places a burden on the city to provide the training. Second, he felt it would be difficult to recruit people within the salary guidelines, since few city jobs pay less than \$7800. As a result, Los Angeles and other jurisdictions have significantly curtailed their participation in the CETA program. While they have switched many ex-CETA employees to fully paid government positions (one of the goals of the CETA program) a large number have not been retained.

3.3. RELATIONSHIPS AMONG LOCAL GOVERNMENT AGENCIES

3.3.1. Consolidation

One of the many creative responses to fiscal limitation envisioned by some proponents of Proposition 13 was rethinking and revising the structure of local government and of the systems used to provide its services. Among the changes mentioned (all of which had been proposed and considered prior to the advent of fiscal limitations) was the consolidation of agencies and activities to reduce costs and promote efficiency. (By consolidation we mean redefinition of organizational, political, or geographical boundaries to achieve the combination of two or more agencies.) The proposals included interjurisdictional consolidation of agencies (e.g., police departments), intrajurisdictional consolidation of agencies (e.g., police and fire departments), reorganization of a service provided jointly by the state and local governments (e.g., consolidation of municipal courts) and consolidation of duplicative activities (e.g.,

the bailiff and process serving functions of the county sheriffs and marshals). The assumption underlying most such proposals is articulated in a recent report of the Los Angeles County Economy and Efficiency Commission:

The entire city-county system of services has excess capacity because of its interjurisdictional structure. This is true even when each of the individual jurisdictions is designed and operating at peak efficiency. It is a case where the aggregate efficiency of the system is much lower than the efficiency of any single part, because of the relationships among the various parts. (Note 29.)

Ironically, the mechanism that the state legislature chose to use in the bailout legislation to allocate funds among local governments made interjurisdictional consolidation (and even informal cooperation) harder after Proposition 13 than it was before. By allocating funds to jurisdictions based on past expenditure patterns, the bailout legislation effectively froze existing service delivery structures and patterns. Prior to the passage of Proposition 13, if one or more municipalities thought it would be more cost-effective to give up a certain activity (e.g., a crime lab or the training of police officers) and have the county provide the service, the budgets of the municipalities would be decreased, the county budget increased, and property tax rates adjusted to reflect these shifts. In the post-Proposition 13 world, each municipality would have to contract with the county for the service, and the county would have to bill each one for the services rendered. Similar mechanisms for transferring payments would be required for several cities to jointly provide services. The financial containment experienced by most local governments was not severe enough to push them in this direction.

A number of arguments, most of them political, were advanced to justify not carrying out consolidations. With respect to law enforcement, consolidation was said to be either infeasible for political reasons or not beneficial because no savings would result from doing it (except in Los Angeles County, where several cities already contract with the sheriff for law enforcement services, but no cities were added after Proposition 13). In Alameda County, where a reasonable argument could be made that economics of scale

might be obtained by combining the jurisdictions of one or more police departments, there were no serious discussions toward this end. The city of Piedmont, for example, has an area of only 1.8 square miles, and is totally surrounded by the city of Oakland. Yet, according to Piedmont's Chief of Police, the socioeconomic characteristics of the two cities are so dissimilar that residents of Piedmont would never tolerate having their police department consumed by that of Oakland. He is confident that the residents would vote for a special local public safety assessment if necessary, in order to assure the continued financial viability of their police department.

Intracity consolidation was considered by a number of cities. In most cases, the cities were investigating the possibility of creating a public safety department by combining their police and fire departments. The city of Sunnyvale, which has had a public safety department since 1950, received an increased number of inquiries about their department from other California cities after the passage of Proposition 13. The Piedmont City Council appointed a citizens' committee to study the issue of police-fire consolidation. The committee recommended against total consolidation. A major reason, according to the committee, was that the aptitude, duties, and training of firefighters and police officers are sufficiently unique that consolidation of these positions was neither feasible nor practical. (Note 30.) The committee did recommend, however, the abolition of one executive position in the fire department (chief or assistant chief) on a one-year trial basis, and reallocating the subsequent salary savings to increase the salaries of the remaining police and fire department executives.

In nearby El Cerrito, the city council dropped the idea of combining the police and fire departments. (Note 31.) The mayor said there were two reasons for this: First, the city felt it could not afford to lose any of its management staff, which would likely occur if the department-head positions were combined. Second, employee morale would have been adversely affected, since the police officers did not want to be firefighters, nor the firefighters police officers.

One California city, Brisbane, did effect a consolidation of its police and fire departments as a result of Proposition 13. Although the firefighters' union is fighting the consolidation in court, the city manager reports that "the new system is working more effectively and at much lower cost than the former system did." (Note 32.)

Proposition 13 gave support to the cause of some county supervisors and administrators who previously had favored the consolidation of municipal courts. In Alameda County, where court consolidation had been discussed off-and-on for the past several years, the county administrator proposed during the June 1978 budget hearings that the six municipal court districts in the county be combined into one district. "The purpose of the recommendation was to increase the efficiency of the municipal court system, provide a sound flexible administrative base to meet future problems and to reduce the cost of the system." (See Note 33.) The board deferred action for several months, and then requested the California Judicial Council to conduct a study of the issue. The council report suggested a limited form of consolidation. (See Note 34.) Most judges strongly oppose consolidation, while the Board of Supervisors supports it. The board has yet to vote to implement consolidation.

In Los Angeles the issue of court consolidation has been a major source of tension between municipal court judges and the county Board of Supervisors for a number of years. Proposition 13 did little to change the situation. The judges recently tried to get the state legislature to assume the power of assigning municipal and justice court district boundaries, in order to prevent the Board of Supervisors from consolidating judicial districts having only one or two judges. (The county has 26 judicial districts. Three have one judge; six have two judges.) Opponents of the bill argue against the potential loss of local control ("The Municipal Court and the Justice Court are county obligations. What sense does it make to have the legislature make decisions for Los Angeles County?"), and in favor of consolidating small districts (Consolidation would result in "more efficiency, more economy, and more just handling of disputes.") (See Note 35.) Supporters of the bill contend that "the power to set the

boundaries is better exercised by the legislature" (see Note 36) and "we might save a few dollars through consolidation, but we could lose convictions by making it necessary for witnesses and others to travel farther." (See Note 37.) Although passed by the Senate Judiciary Committee, the bill died on the Senate floor.

Another proposal affecting the courts that is perennially rejected by the state legislature involves the consolidation of some of the functions of the county sheriff and marshal. In 15 counties, the sheriff provides bailiffs for the superior courts, the marshal for the municipal courts. Both the sheriff and marshal serve writs and processes issued by any court. According to the Los Angeles County Economy and Efficiency Commission, consolidation of these two duplicative activities in Los Angeles County would save an estimated \$5 million annually. Ten counties in California have already consolidated these activities, but the legislature has failed to pass legislation permitting 15 other counties with the same situation to consolidate. (Note 38.)

3.3.2. Cooperation

Most officials with whom we spoke reported few large changes in cooperation among local criminal justice agencies. No major institutional changes were reported and no new compacts or agreements were reached. To the contrary, agencies have become less cooperative, i.e., less generous in providing free services to other agencies.

Proposition 13 seems to have marked the end of an era of expanding free services provided by counties to cities. This is understandable in light of the fact that Proposition 13 and the bailout legislation made such cooperation hard to justify. As discussed in Section 3.3.1, the bailout legislation effectively froze existing service delivery structures and patterns. Counties are no longer able to recoup their costs for taking over a service by raising property taxes.

We noted this development in all our study counties, but it was most clearly manifest in Alameda County. In the past, that county had generally assumed responsibility for a large number of

law enforcement support services that presented opportunities for economies of scale if performed on a county-wide basis (including crime laboratory work, pretrial detention, and certain telecommunication networks). We were told that in the future the county is not likely to undertake new service responsibilities to the cities unless it is reimbursed. Furthermore, reductions in the sheriff's FY 1979 budget lowered the quality of some services already being provided--for example, an increase in the turnaround time for work requests made of the sheriff's crime lab by the cities. The county also considered instituting charges for the support of some services it had been providing free. This brought an immediate storm of protest from the cities, who threatened to obtain the services elsewhere. The county's desire to maintain centralized services prevailed, and there was no further serious discussion of charging cities for services currently being provided.

The opposite problem arises when a county (or other jurisdiction) has overall legal responsibility for a service that it did not actually provide in the past. In that situation, the jurisdiction can be forced to expand the services it provides to a lower-level unit of government and may be unable to charge for the service. Suppose, for example, that a city agency stops performing some kinds of activities that it used to perform. (This is called "demand shedding," and is discussed further in Section 5.2.) If there is no legal requirement for the activity to be performed (e.g., investigating white collar crime, or directing traffic at a busy intersection), then no county agency (or other government agency) is likely to assume responsibility for the activity. However, in some cases the dropped activity is legally required, and the responsibility falls on another agency; then the burden of performing the service is transferred without a concomitant transfer of cost.

For example, some cities in Los Angeles County are considering closing their jails to save money. (Montebello has already done so.) The sheriff is legally required to assure that arrestees not released by the court are detained, and so offenders from these cities must be housed in county facilities. The sheriff can only ask for reimbursement of costs from the city if the offender is charged with a violation of the municipal code. In less dramatic fashion, city police departments that continue to operate their own detention facilities can transfer prisoners more rapidly to county jails than they did in the past--even though the transfer may be inconvenient for purposes of interrogation. The cost of guarding and feeding the prisoners must then be assumed by the county. Similarly, should a city decide to eliminate its police department, the sheriff would be obliged to provide law enforcement services whether or not an arrangement for compensation had been made.

We also found that government agencies have reduced their participation in activities involving shared responsibilities. For example, when a career criminal program was being planned in one of our study counties, both the sheriff and the major city's police department agreed to assign one full-time officer each to assist the district attorney. Both departments now say they can no longer afford such assignments.

Many local government agencies seem to be revising downward their estimates of the service levels they can expect when dealing with other agencies. For example, judges in Alameda County appear to be more willing to accept budgetary limitations as an excuse for tardy submission of presentence reports on convicts by the Probation Department. In Los Angeles, however, judges appear to be no more tolerant now in this area than they were prior to Proposition 13.

Where there has been rivalry and duplication of effort in the past, there is evidence that Proposition 13 has stimulated some interest in improving cooperation between city and county agencies. In one county, where there are two advanced crime laboratories, one in the sheriff's department and one in the police department of the largest

city, the police chief of that department would like to enter into an agreement with the sheriff that would divide responsibilities for the development of expertise in costly lab procedures.

Intercounty cooperation in the post-Proposition 13 world faces the same impediments as does intercity and city-county cooperation. Formal mechanisms for cost sharing have to be set up, but few (if any) have been so far. For example, in probation services and corrections, the two areas where the potential for intercounty cooperation would seem to be the highest, there have been few significant developments in our study counties.

We have some evidence that, where there are no impediments to consolidation and cooperation, such approaches could be expected to be increasingly attractive in the face of fiscal limitations. One approach to improving the economy and efficiency of the courts that falls somewhere between informal cooperation and formal consolidation--the San Diego Municipal Court Experiment--has been thriving in the post-Proposition 13 environment. It was begun in El Cajon with LEAA funding in September 1977 and has gradually been expanded to include other parts of San Diego County. Under the program, with the agreement of the parties in a case, municipal courts handle many matters that superior courts handle elsewhere, including civil suits involving damages up to \$30,000, and certain felony cases. As a result, workloads in the superior courts have been reduced, continuity is obtained for certain felony cases, and overall system costs have been reduced. Implementation of this program has not been impeded by the bailout legislation, since funds for both the municipal and superior courts come from the county's budget.

3.3.3. Systemic Effects

The local government service delivery system and some of its subsystems, like the criminal justice system, are composed of groups of delicately balanced independent but interdependent agencies, with little centralized control or authority. A reduction in the budget of any one agency necessitates a rebalancing of the entire system, which often takes time. In the interim, there may be instances when

behavior seems dysfunctional and operations irrational.

Our interviews turned up several cases in which programmatic changes by one criminal justice agency had an adverse impact on the programs of one or more other agencies. For example, soon after manpower reductions were made by Alameda County's Public Defender, the Oakland Municipal Court began to experience delays because defendants were appearing at arraignment who had yet to be interviewed by the Public Defender. Adjustments were quickly made in the Public Defender Department to remedy this situation. Similarly, Superior Courts experienced some delays in processing cases due to the late filing of documents by county clerks. The clerks' delays resulted from staff reductions.

Changes in police patrol manpower affected the municipal court and the revenues of one community. There, due to reductions in police patrols, the number of traffic citations fell. This reduced the number of filings and resulted in less revenue "generated" by the court.

Nearly every criminal justice agency in Alameda County has been affected by layoffs and increased attrition in the county's data processing department. That department maintains the system that records local criminal histories and helps manage transactions between agencies and offenders. As a result of the manpower shortage, the frequency and duration of system downtimes have increased, and scheduled new developments have been postponed.

We came across several instances where a criminal justice agency was affected by reductions in a noncriminal justice agency. For example, one police department received a greater number of calls from playgrounds and recreation fields for assistance in settling disputes and handling complaints that were previously the responsibility of recreation department employees. The chief of police there urged the city council to restore some of the recreation supervisor positions that were cut.

4. FEDERAL AND STATE MANDATES

Until as recently as forty years ago, the local, state, and federal governments in the United States operated relatively independently in their respective spheres of influence. Since then, state governments, and subsequently the federal government, have played larger and increasingly important roles in local affairs.

As noted above, local budgets now include large amounts of federal and state money. For example, in FY 1979, 38 percent of Alameda County's revenue came from state subventions, and 34 percent from federal subventions. The growth in such intergovernmental revenue transfers, particularly from the federal government, has been rapid. The Advisory Commission on Intergovernmental Relations, for example, reports that direct federal aid to the city of Los Angeles constituted less than 1 percent of its general revenues in 1957, 16 percent in 1976, and an estimated 28 percent in 1978. (Note 39.)

In most cases the state and federal revenue comes with "strings" attached. These strings have many sizes, shapes, and forms, as illustrated by the classification into requirements and constraints given by Lovell et al.: (Note 40.)

Requirements

A. Programmatic

1. Program
2. Program quality
3. Program quantity

B. Procedural

1. Reporting
2. Performance
3. Fiscal
4. Personnel
5. Planning/Evaluation
6. Record keeping
7. Residual

Constraints

A. Revenue Base

B. Revenue Rate

C. Expenditure Limits

Common examples of constraints associated with state and federal grants include:

- o Matching requirements, under which the local government must provide a specified percentage of the grant costs as a condition for receiving the assistance.
- o Maintenance-of-effort provisions, which require that the grantee maintain a given level of spending for the program. Some programs include provisions that prevent grantees from using the funds to supplant local funds that would have been spent for the program in the absence of the state or federal funds.

In addition to attaching strings to grants, state and federal governments require local governments to perform many other activities that implement national or state policy objectives. Some of these include mandates to protect environmental quality, ensure prevailing wages for construction workers under contract, provide equal access to services for the handicapped and disadvantaged, and provide legal defense services to the indigent. (See Note 41.) Mandates pervade all functions and levels of government--from specifying the frequency with which dogs in cities must be counted, to setting minimum training standards for auxiliary police officers and earliest wake-up times for inmates in county jails.

The increase in the number of state and federal mandates on local government closely parallels the increase in state and federal funding of local governments. Lovell et al. identified over 4000 federal and state mandates affecting local governments in five states (not including court mandates), 67 percent of which were imposed after 1970. Most federal mandates are imposed as conditions of aid, while most state mandates are direct orders. The Department of Housing and Urban Development (HUD) alone is responsible for a substantial portion of all federal mandates (over 35 percent), while the Department of Health, Education and Welfare (HEW) and the Environmental Protection Agency (EPA) account for an additional 32 percent between them.

There have been a number of recent studies dealing with the effect of state and federal mandates on local governments. (See Note 42.) Our discussion of the likely effects of mandates in a period of fiscal contraction draws heavily on the information in the excellent paper by Posner and Sorett of the U.S. General Accounting Office and the study Lovell et al. performed for the National Science Foundation.

4.1. COST

Mandates are often costly. If a local government were already performing a mandated activity, the imposition of the mandate would not increase the government's expenditures. However, a mandate is generally imposed because, without it, many local governments would most likely not perform the activity. Lovell et al. found that in well over 50 percent of the cases, local governments were either not carrying out or only partially carrying out certain specifically mandated activities before the mandate was imposed. (See Note 43.)

Local governments are sometimes reimbursed for the cost of carrying out a mandated activity, but most are unfunded or significantly underfunded. Lovell et al. found that "over half of all mandate costs . . . are paid for by the local governments, overwhelmingly from the general fund." (See Note 44.) So, mandates have contributed to the increasing cost of local government.

Each mandate placed on local government typically has a very small cost (with a few notable exceptions such as certain provisions of the National Environmental Policy Act of 1969). However, the cumulative weight of hundreds of mandates can produce a significant financial burden. For example, the reporting requirements for most federal programs are not excessive in relation to their size, and yet the cumulative impact of all reporting requirements is very large. A study performed by the Academy for Contemporary Problems estimates the costs to state and local governments resulting from federal information requirements are \$5 billion per year, of which only a small part is paid for by the federal government. (Note 45.)

Most federal mandates are imposed as conditions of aid. Although local governments are not directly required to comply with such mandates,

the potential loss of federal assistance is usually punishing enough to force compliance. A local cost is mandated as a condition of aid for over 60 percent of federal assistance programs in the form of "matching" requirements, under which a share of the program's costs must be contributed by the grantee. The required nonfederal match varies from 10 percent for LEAA programs to 50 percent for outdoor recreation grants.

A hidden cost to local government is the expense of continuing federally initiated programs after federal sponsorship has terminated. This applies to federal grants that are intended to stimulate the creation of new state and local government activities by providing "seed money" for a few years. To the extent that the federal program is successful, it creates a continuing demand for public services that local governments with fiscal problems cannot easily absorb. As described by Posner and Sorett, "Federal grants that start new services create a clientele that continues to be dependent on the service regardless of the continued availability of federal funds. When federal funds do expire, local officials are faced with the dilemma of increasing the budget to accommodate the new service or alienating a public that has grown accustomed to the service." (See Note 46.)

In some cases federal "seed money" is provided for the purpose of initiating a new mode of operation that is projected to be more efficient than past operations and perhaps even less expensive (for example, improved procedures for managing criminal investigations). Nonetheless, the final result often costs more. Perhaps it provides better services or more services than in the past, but nevertheless at higher costs. So, upon termination of federal funding, the local government still faces the decisions of whether and how to continue the program.

Local government officials express considerable optimism about their ability to terminate programs once they're started. Our interviews indicated that Proposition 13 had not reduced local officials' propensity to seek federal grants, although they specifically intended not to continue many of them when the federal funding ran out. They may find it more difficult to terminate such programs than they think, since granting agencies and interest groups that stand to benefit could bring direct pressure to bear on local officials or could press for revised contractual or legislative language to forestall the terminations that the officials seek.

Within the criminal justice system, the corrections and public defender functions are the most heavily mandated, while the law enforcement function has the fewest mandates. Information from our interviews seems to indicate that the mandates in corrections are the most costly. Many such mandates result from court orders that are aimed at increasing the rights of inmates and improving their physical surroundings. For example, a 1977 decision by a federal court judge (see Note 47) required the Los Angeles Sheriff's Department to provide inmate recreation facilities, modify the existing custody facilities, and provide inmates in outside cells with a way to "see the sun" during the day. The county budgeted \$3 million for these mandates in FY 1979, and will have continuing costs every year. In another example, a federal court decision in April 1979 directed Los Angeles County to improve toilet and shower accommodations and medical care for inmates in the Central Juvenile Hall. The county, which is appealing the decision, said its cost would exceed \$100 million.

There is no doubt that most of the mandates on local government have worthwhile objectives. However, they are generally formulated with little regard for the cost burden they impose, and with little or no effort made to see if their benefits are likely to outweigh those costs. For example, a section of the Rehabilitation Act of 1973 providing for nonexclusion of qualified handicapped individuals in federally assisted programs was adopted by the Congress without hearings or debate. Only later, after implementing regulations had been issued, were the costs estimated: approximately \$2 billion a year to meet the HEW regulations and another \$2 billion to \$8 billion in capital investments to meet HEW and DOT regulations. Said Representative Charles A. Vanik, the sponsor of this section of the Act, "We never had any concept that it would involve such tremendous costs." (See Note 48.) So the question of whether the benefits did or did not exceed the cost of this mandate had evidently not been considered in the legislative process.

4.2. IMPACTS ON PRIORITIES OF LOCAL GOVERNMENTS

Federal and state subventions and mandates have had a significant impact on the mix of services provided by local governments. Before 1960, local governments provided little more than basic services like police, fire, sanitation, education, parks, and roads. Since then, with the carrot of federal spending and the stick of mandates, they have begun to place much more emphasis on areas such as community development, social services, and health. This trend is defended by some as a legitimate expression of state and national priorities, and criticized by others as reducing the autonomy of local governments and compromising principles of local self-government.

Posner and Sorett provide some examples to support the argument that federal mandates infringe on local autonomy and distort state and local priorities:

- o The Energy Policy and Conservation Act of 1975 requires local implementation of energy conservation standards certified by HUD. "The codes must be statewide, uprooting long traditions of local control over building codes in many states."
- o As a condition for receiving federal Juvenile Justice grants, LEAA requires states to develop programs to deinstitutionalize juvenile "status" offenders. (See Note 49.) In states where the local criminal justice officials and planners believe deinstitutionalization is a controversial and unproven strategy, the federal government is, in effect, dictating an unwanted policy for the state.
- o Local governments devote resources to areas that they claim have relatively low local priority, simply because the bulk of expenditures are covered by federal programs with low matching fund provisions. "Thus, while state and local governments may not feel that drug abuse prevention or air pollution control is of sufficient local priority to warrant a new commitment of 100 percent local funding, they would be hard-pressed not to participate when the federal government offers to pay 75 to 100 percent of the costs."

While it is true that local governments can refuse federal and state aid, and therefore avoid the mandates that come as conditions of aid, it is politically difficult to do so. Local officials repeatedly express the wish that national and state priorities more closely matched their local needs. Most can cite examples of severe mismatches between state or federal priorities and particular local circumstances. Kings County in California set up a public transportation agency to provide bus service that the county supervisors felt was unnecessary. The alternative was to forfeit the \$750,000 per year that is available to the county from the state for transportation purposes. One county supervisor, who voted against setting up the agency, lamented: "It bothers me to have to build a bus service when the road in front of my house is ready to go to pot." (See Note 50.)

Even when federal priorities originally match state and local priorities they may fail to respond rapidly to changing local needs. For example, federal spending on highway research, planning, and construction is seen as mistargeted by local officials who face increasing costs for maintenance of existing highways, and a decreasing need for new highways.

In some cases, differences in opinions about the proper role of the federal government lead to perceived mismatches in priorities. An example is given by police officials who in their interviews argued for LEAA funding of police officers' compensation. The Oakland police chief told us that what his department needed more than anything was federal grants for "righteous, upfront, good old-fashioned police officers." But Congress has consistently avoided authorizing LEAA to fund any programs with even the slightest taint of establishment of a federal police force.

In times of fiscal expansion the pushes and shoves applied to local governments by federal and state mandates, which force local governments to undertake what to them seem to be low priority activities, can be accommodated with few complaints. The budget is expanding, so all agencies and client groups can get at least as much as they were getting before, and taxes can be raised to pay for the expansion of services. However, in times of fiscal limitation

mandates play a perverse role that was clearly unintended when they were imposed.

Mandated activities, whether imposed by the courts, the legislature, or an executive agency, were intended to be carried out in addition to traditional local government services, not instead of them. It was assumed that programs with strong local constituencies, such as police patrol, fire protection, and refuse collection, would always be able to secure sufficient funding. This is true during fiscal expansion, but not during fiscal contraction. We found that, when budget cuts are required, mandated programs and functions remain, and nonmandated programs and functions get cut.

For example, in Alameda County, after the passage of Proposition 13, all county services were categorized as:

1. Mandated.
2. Nonmandated, but revenues exceed costs (e.g., a bureau that collects bad debts).
3. Nonmandated but critical (life and limb or property would be jeopardized without the service).
4. Nonmandated, and either noncost-effective or noncritical.

Cuts were then made from the bottom up, so that services in category 4 were hit very hard. Similarly, the California Department of Finance found that after the passage of Proposition 13 "the maintenance of mandated programs--public assistance, health . . . , the courts and public safety . . . forced discretionary programs--libraries, parks and recreation, general administration--to absorb the sharpest reductions." (Note 51.) It should be noted that public assistance programs, which are heavily mandated and were in large part unaffected by Proposition 13, were at the top of the list of programs that voters said should be cut if cuts were needed to implement Proposition 13. (See Note 52.)

A study of New York City's budgets between FY 1961 and FY 1976 revealed a marked shift away from basic services like police, fire, and sanitation toward social services and health--areas with heavy federal funding. (Note 53.) For example, welfare accounted for 12 percent of the city's expenditures in FY 1961 and 23 percent in FY 1976; police, fire, and sanitation accounted for 20 percent of the

city's expenditures in FY 1961 and 12 percent in FY 1976. The study concludes that this shift is counterproductive to New York's long-term health, and resulted from a process whereby federal categorical grants distorted the city's normal budget allocation process. During the 1960s the city decided to invest new revenues among competing functions based in part on the federal dollar return. When a fiscal crisis hit the city, budget cuts were concentrated on services that were not eligible for federal funds.

According to Posner and Sorett, this process is likely to repeat itself in any city that is faced with fiscal limitations. "Because of match requirements, it makes eminently good financial sense for cities with fiscal problems to cut their budgets in areas with no federal funding in order to maximize local dollar savings while minimizing program impact and avoiding loss of external aid." (Note 54.)

One need not look only to health and welfare agencies to observe what happens when federal and state priorities dominate local priorities. District attorneys' offices reveal an interesting pattern. We found that they had fared the best of all criminal justice agencies in the fiscal year following the passage of Proposition 13. (For example, although the total budget for Alameda County's criminal justice system was cut by 6.5 percent from the previous year, the district attorney's budget increased by 8.5 percent.) However, most of the increases in the budgets of district attorneys did not go to expand their prosecutorial activities, but were allocated to their "child-support" function. (See Note 55.) (For example, the budget for the Alameda County District Attorney's prosecutorial activities increased by 1 percent in FY 1979, while the budget for child-support activities increased by 32 percent.) The child-support function is mandated by the federal government, which pays 75 percent of the cost of administering the function, and provides incentive payments equal to 15 percent of the amount collected. In addition, the State of California matches the federal incentive payment. As a result, the child-support function actually generates net income for most California counties. Thus, it is not surprising that we found in our study sites (1) 30 to 50 percent of the district attorney's budget was

allocated to the child-support function, and (2) this percentage has been steadily increasing over the last few years. (So, even with an overall increase of 8.5 percent in his budget, the Alameda County District Attorney was forced to cut back on investigations and eliminate the prosecution of certain misdemeanors.)

A county's board of supervisors would probably not allocate 50 percent of the district attorney's budget to the child-support function if they had their choice of what to do with the money. A survey of local government officials carried out by the Advisory Commission on Intergovernmental Relations (ACIR) found that 75 percent of officials would have made moderate or substantial changes in allocating federal funds if they were freed from categorical grant restrictions. The ACIR concludes that "clearly, as seen by the officials surveyed, federal grants tend to skew local decisionmaking." (Note 56.)

An important question is whether these views of local officials are also the views of a majority of their constituents. If so, the trends in program cuts that we have identified portend a coming imbalance between voters' wishes and the budget allocations of local government. Assuming that nonmandated activities continue to be reduced as a result of fiscal limitations, the mandated activities--including those that local officials feel are mistargeted--will be absorbing an increasing share of local government revenues. Voters who are opposed to these trends will find it difficult to hold local officials accountable, because these same officials claim they are powerless to resist the mandates. Increasingly, then, political actions on local policies will occur at state and federal levels, resulting in a less local autonomy. William Oakland observed that, as a result of Proposition 13, "local control or 'home rule' may become a thing of the past in California." (Note 57.)

When we began our project we thought that by observing which services experienced budget cuts and which did not we would see revealed the essential priorities of local government. Instead, we have seen revealed the essential priorities of the state and federal government. Harry L. Hufford, Chief Administrative Officer of Los

Angeles County, in his Recommendations for the Proposed 1979-1980 Budget, wrote:

The Budget recommendations vividly demonstrate that Federal and State mandated programs continue to increase while locally financed programs are decreasing. Thus, the effects of Proposition 13 are seen--increased reliance on State and Federal funds with a corresponding loss of home rule over budget priorities and level of service. (Note 58.)

5. EMERGING PATTERNS IN THE CRIMINAL JUSTICE SYSTEM

Fiscal limitation implies a decrease in real expenditures of the criminal justice system. Inevitably, this leads to a change in the nature of justice and a rethinking of what the system should do and should not do. Some trends that we have identified are described in this section.

5.1. COST CONSIDERED IN COURT DECISIONS

In principle, justice should be dispensed without reference to the financial burdens placed on those who must achieve justice. Courts have rarely explicitly considered the costs imposed on the criminal justice system in their decisions or operations. However, in practice, judges are aware of the financial implications of their decisions and may take costs into account implicitly. Recently there have been indications of a growing willingness to consider costs explicitly. While still a minority position, it has increasingly been raised and debated. For example, in a dissenting opinion in a California Supreme Court civil case to decide whether due process required the appointment of counsel to represent indigent defendants in paternity suits (see Note 59), one of the justices wrote:

While access to the courts is constitutionally protected, this access need not be guaranteed in the form of free counsel. . . . It is my view that the financial implications of such a decision may very well be tremendous and beyond our capacity to determine. If the civil litigant is now to be furnished free counsel, what of the expenses of extensive discovery, and can the cost of the retention of an expert witness be far behind? The majority is strangely silent on the critical question--who is going to pay for counsel?

The growing conflict between the demands of justice and the ability of governments to meet those demands has profound implications. It seems likely that the issue will eventually be forced: either some individuals' rights will be compromised in the interest of government

solveny or the government in question will actually be unable to comply with the court's order. Early cases of this type will no doubt be controversial and will lead to some rethinking of the values underlying our system of justice.

5.2. REVISION OF FUNCTIONS

One way in which criminal justice agencies respond to lowered budgets is by shedding demand: they stop performing certain kinds of activities that they previously would have undertaken on their own initiative or at the request of a citizen or another criminal justice agency. Some of these changes are minor or even peripheral to the objectives of the criminal justice system. Others, however, constitute abandonment of an entire function customarily associated with the agency and reflect a contemplation of the agency's past successes and failures, and a rethinking of its goals and priorities. This section gives examples of major demand shedding in various parts of the criminal justice system. (See Note 60.)

5.2.1. Prosecution

District attorneys have commonly reacted to fiscal limitation by reducing the categories of offenses that they will prosecute. Even before Proposition 13, case screening by prosecutors in California tended to be much more stringent than in most jurisdictions elsewhere, (see Note 61) yet the recent trend has been toward even greater stringency. Entire categories of crimes have been made ineligible for prosecution in some jurisdictions. For example, the San Joaquin District Attorney has begun refusing nonviolent misdemeanor cases brought in by the police, the Los Angeles District Attorney has stopped filing juvenile misdemeanor cases except for serious ones, and the Alameda County District Attorney is no longer prosecuting infractions in traffic cases.

These changes in case screening policies are publicly announced and understood. Other unannounced or invisible reductions in investigations and prosecutions are also taking place. For example, the Alameda County District Attorney told us that the reductions in staff that he had already experienced make it difficult for him to

conduct original investigations into matters such as official corruption and consumer fraud. In general, fiscal limitation is likely to reduce self-initiated efforts and focus the time of prosecutors on reacting to demands placed on them by other parts of the system. In so doing, some types of crimes inevitably become deemphasized even if no explicit decisions are made about them. For example, the recent growing concern with white collar crime is unlikely to be sustained in the face of fiscal limitation.

5.2.2. Law Enforcement

Police departments, similarly, are forced to concentrate resources on high priority crimes, and reduce their efforts elsewhere. An official in a small rural city, for example, told us that although the police currently follow up on all calls, they will begin to ignore certain offenses--the "minor stuff." The police might not respond to take traffic accident reports or to investigate suspicious circumstances or burglaries. "In the future, the people will have to come into the station to report something like a stolen television." Detectives in the city of Los Angeles, where a long-standing tradition of investigating all reported felonies was surviving in the face of national trends toward case screening, were recently instructed to concentrate their resources on crimes that have a high probability of being solved, screening out those that are unlikely to be solved. The department publicly attributed this decision to budgetary pressures after Proposition 13.

While some observers may welcome the increased efficiency implied by these efforts to focus police resources where they will do the most good, others will discern a disturbing philosophical shift in the role of the police. Under fiscal pressure, basic service functions of the police are being sacrificed in favor of the crime control functions. Ironically, this trend runs counter to the thrust of much recent research on police effectiveness. In particular, the research casts doubt on the ability of the police to bring about any substantial reduction in crime rates, especially if trends in society and in the remainder of the criminal justice system push toward greater amounts of crime.

One reason for the weak link between police resources and crime rates is that the police spend most of their time on functions unrelated to crime--order maintenance and provision of services to the public. Far from criticizing the police for allocating their time in this way, modern reform-minded researchers and practitioners have called for devoting more talent and attention to the service functions, so that they can be performed more effectively. They point out that the general climate of trust and cooperation between the police and the citizenry, which arises out of a multitude of minor interactions, has a greater ultimate influence on crime rates than how the police handle a particular crime. (Note 62.)

Whether a police chief or sheriff agrees or disagrees with this view of the role of police in society, fiscal restrictions inexorably press toward sacrifice of the service functions. The link between such functions and police effectiveness is too subtle, too unproved, and--most important--too long-term to hold sway in the budgeting process. By contrast, cutbacks in crime-fighting functions can have immediate and easily understood consequences. Generally they are made only with great reluctance and concern by all the government officials who are involved.

5.2.3. Probation

In probation departments, the demand shedding behavior has been very different from that in police departments. Budgetary constraints have brought about a serious rethinking of the role of probation in the criminal justice system and a movement away from previously central "crime-fighting" activities. The probation function has traditionally been oriented toward rehabilitation of offenders. But the method used by probation officers pursuing this goal, namely intensive personal supervision, is very expensive. Moreover, recent research generally suggests that expensive efforts at rehabilitation are not more effective than inexpensive ones. Kenneth Fare, acting head of the Los Angeles County Probation Department, speculated that probation will undergo major changes in the future, mostly because of anticipated budget cuts: "We are going to have to look at the role of probation and what the expectations

of the community are, then we will have to adjust the resources we have to what is needed. . . . The expectation that probation will have the resources to change criminal behavior will be removed." (Note 63.)

In California, probation departments have carried out a wide range of activities, so a movement away from supervision implies a relative increase in emphasis on less well-known functions. Probation is likely to center its activities around investigations of offenders' backgrounds that are required by courts for sentencing purposes, and monitoring and surveillance of offenders in bail-release programs. Probation officers, relieved of case supervision work, may be able to do a better job at these functions than they are currently doing, and still reduce overall costs.

5.2.4. Courts and Corrections

Courts and corrections agencies have little discretion to control their workload by dropping or ignoring some of the demands placed on them. If the prosecutor chooses to prosecute a case, the courts are obliged to handle it in some way, whatever backlog or financial limitations may exist. Similarly, when a person is sentenced to jail or prison for a specified term, the corrections agencies cannot refuse to receive him or release him early on their own volition.

We did not find any major instances of demand shedding in these agencies after Proposition 13. In an effort to reduce backlogs of civil cases by eliminating the necessity for court trials in some of them, arbitration was made mandatory in California for certain civil cases involving \$15,000 or less in damages.

Corrections agencies have undertaken efforts to locate alternatives to traditional secure facilities for housing persons in their custody. However, the movement toward such alternatives is propelled less by a desire to reduce expenditures than by a need to accommodate a rapid increase in the incarcerated population. Trends toward greater incarceration and longer sentences in California, which are quite independent of fiscal limitation, have been leading toward a serious problem of prison overcrowding. During 1978 the felon population in prison increased 12 percent. Even if adequate funding for new or

expanded facilities were readily available, which it is not, the time delays involved in selection of sites and construction of facilities would necessitate the same interim adjustments that are now under consideration.

5.3. PRIVATIZATION

Privatization occurs when a governmental unit stops supplying a service, and private firms provide some kind of substitute for the previously public service. Such firms are compensated directly by the public. Thus, privatization differs from the process of contracting out public services to private firms (discussed in Section 2.2), since the contractual arrangement leaves the service under the control of a public agency. (See Note 64.) An example of privatization in California after Proposition 13 involved summer schooling. Most school districts eliminated nearly all of their summer classes, and a variety of private sector organizations picked up the business: private schools, voluntary service groups, recreational facilities, summer camps, and travel organizations.

Generally, the criminal justice system offers few opportunities for the recipients of services to pay for the level of services they desire, because criminal offenders handled by the system are--to say the least--reluctant recipients of its services. However, there are some opportunities for privatization, and we find hints or indications that it may be occurring. Businesses that are not satisfied with their level of police protection can hire their own security guards or invest in security equipment. Neighborhood groups concerned with a reduction in police patrol activities can organize their own patrol teams or contract with private security services. Residents can also purchase home security systems. While the growth in sales of the private security industry indicates that these trends are occurring, the relationship between private investment and fiscal limitation in government is unclear. (The industry's growth began several years before Proposition 13 in California and has not shown any dramatic change since.)

5.4. QUALITY OF JUSTICE

The overall impact of fiscal containment has been capsulized by Pascal and Menchik as follows: "a leaner and smaller public sector may also turn out to be meaner and harsher." (Note 65.) The impressions that we gained from our interviews and analyses suggest that this is true for the criminal justice system in California. (However, our impressions are necessarily tentative, because we did not collect or analyze data about system performance.) In focusing its energies on serious crimes, the system appears to be losing some aspects of humanness that it previously showed toward arrestees, defendants, convicts, complainants, victims of crimes, citizens needing various kinds of assistance or reassurance, and the system's own employees.

Earlier sections of this Note have pointed out examples of harsher treatment in all components of the criminal justice system. Consider what has happened to individuals convicted of crimes after Proposition 13. They have fewer opportunities for meaningful probation supervision or treatment in a community correctional facility, but much larger numbers of them are being sent to prison. The prison facilities themselves, experiencing overcrowding and its attendant problems of increased violence, are harsher forms of punishment than they previously were.

Consider people who are victims of crimes that the system considers minor, or who experience some form of unusual or suspicious behavior. They may find the situations traumatic, frightening, or extremely annoying, even while recognizing that they are not dealing with a serious crime. Since Proposition 13, they are less likely to be able to get the police to respond at all. If the police do respond, they are less likely to take anyone into custody. If someone is arrested, the district attorney is less likely to prosecute.

Employees of the system have had some of the more interesting and rewarding aspects of their jobs eliminated. They feel the public does not hold their occupation or performance in high regard. And the prospects for future enhancements in their salaries and benefits do not look nearly as favorable as they did a few years earlier.

Litigants in fairly routine civil cases may wait several years in some jurisdictions before they reach trial and adjudication. While they

understand that the courts must concentrate attention first on serious criminal cases, their frustrations with an unresponsive system are real nonetheless.

These examples of movement toward a less humane and less responsive criminal justice system, and other examples that could be offered, may be viewed by some proponents of Proposition 13 as just what they wanted to happen when they voted for its passage. Other people may find them dismaying. With the passage of time, voters will be able to judge whether they value their tax savings more or less highly than any disbenefits they experience from changes in government services. This collective judgment will determine whether fiscal limitations on government become more stringent or are relaxed in the future.

NOTES

1. The details of the state bailout, and its political history, have been presented by Albert J. Lipson with Marvin Lavin, Political and Legal Responses to Proposition 13 in California, The Rand Corporation, R-2483-DOJ, January 1980.
2. The legislation also protected fire departments with the same provisions that applied to police and sheriffs programs.
3. J. M. Chaiken, W. E. Walker, A. P. Jiga, and S. S. Polin, Fiscal Limitation in California: Initial Effects on the Criminal Justice System, in preparation.
4. The full report of this study, cited in Note 3, shows the locations of the study sites and gives information about their characteristics.
5. Charles H. Levine, "More on Cutback Management: Hard Questions for Hard Times," Public Administration Review, Vol. 39, No. 2, March-April 1979, pp. 179-183.
6. Paul Berman and Milbrey W. McLaughlin, The Management of Decline: Problems, Opportunities, and Research Questions, The Rand Corporation, P-5984, August 1977.
7. Levine, op. cit., p. 181.
8. An Analysis of the Effect of Proposition 13 on Local Governments, Legislative Analyst, State of California, Sacramento, October 1979.
9. Proposition 13: How California Government Coped with a \$6 Billion Revenue Loss, Comptroller General of the United States, Report GGD-79-88, Washington, D.C., September 23, 1979.
10. Levine, op. cit., p. 181.
11. He had recently submitted a proposal for a computerized jury selection system. Although significant savings were demonstrated, he felt the Board of Supervisors would alter the existing "bad system rather than spend more initially."
12. Levine, op. cit., p. 180.
13. Sid Bernstein, "County Going Slow on Private Contracts," Los Angeles Times, April 28, 1980, p. 1.

14. This trend began long before the passage of Proposition 13, but it has been accelerated and intensified by its passage.

15. A state buyout of a service means that the state assumes the financial responsibility for the service while the local government maintains administrative and operational responsibility.

16. William H. Oakland; "Proposition 13: Genesis and Consequence," National Tax Journal, Vol. XXXII, No. 2, June 1979, p. 403.

17. Maureen Fitzgerald, "Jarvis II," California Journal, January 1980, p. 36.

18. Serrano v. Priest (5 Cal. 3d 584 (1971)) declared that the existing system for financing education in California was unfair to low wealth school districts, and ordered the implementation of a new system that would result in a more equal distribution of revenues per pupil.

19. Robert D. Reischauer, "Intergovernmental Responsibility for Meeting the Equity Considerations of Proposition 13: The Federal Role," in Proposition 13 and Its Consequences for Public Management, Abt Books, Cambridge, Massachusetts, 1979, p. 19.

20. Ibid., p. 20.

21. A Study of the Local Government Impacts of Proposition 13-- Vol. I, Department of Finance, State of California, Sacramento, January 1979, p. 25.

22. A Study of the Local Government Impacts of Proposition 13-- Vol. II (Counties), State of California, Department of Finance, Sacramento, January 1979, p. 66.

23. Assembly Bill 8, Chapter 282. See Albert J. Lipson with Marvin Lavin, op. cit., Chapter VII for a description of the legislation.

24. Final Report, Commission on Government Reform, State of California, January 1979, p. 44.

25. Proposition 13 in Los Angeles County Government: Before and After, Los Angeles County Economy and Efficiency Commission, February 5, 1980, p. 83.

26. LEAA grant programs require 10 percent of the project costs to be contributed by the grantee as a condition for receiving the grant.

27. Proposition 13: How California Governments Coped with a \$6 Billion Revenue Loss, Comptroller General of the United States, Report GGD-79-88, Washington, D.C., September 23, 1979, p. 37.

28. "Piper Pushes for L.A. to End CETA Program," The Valley News May 4, 1979.

29. Proposition 13 in Los Angeles County Government: Before and After, op. cit., p. 17.

30. "Public Safety Study Committee Final Report," May 17, 1979, submitted to the Piedmont City Council.

31. "Council Drops Police, Fire Consolidation," The Oakland Tribune, June 11, 1979.

32. Public Management, February 1979, p. 19.

33. Letter dated September 18, 1978, from the County Administrator to the Alameda County Board of Supervisors.

34. "Survey of Alameda County Judicial Districts," no author, no date.

35. Alan Sumner, legislative advisor to Governor Brown, and Steve Birdleough, California Judicial Council, respectively, cited in "Ban Sought on Consolidation of Local Courts," Daily Journal, June 7, 1979.

36. Roy Norman, Presiding Judge, Los Angeles County Municipal Court, ibid.

37. Frank Vicencia, California State Assemblyman, ibid.

38. Proposition 13 in Los Angeles County Government: Before and After, op. cit., p. 78.

39. The Intergovernmental Grant System: An Assessment and Proposed Policies, Advisory Commission on Intergovernmental Relations, Washington, D.C., 1978.

40. Catherine H. Lovell, Robert Kneisel, Max Neuman, Adam Z. Rose, and Charles A. Tobin, Federal and State Mandating on Local Governments: An Exploration of Issues and Impacts, Graduate School of Administration, University of California, Riverside, California, June 1979, p. 34.

41. For a detailed description of the generally applicable national policy requirements for grant programs, see Categorical Grants: Their Role and Design, Report A-52, Advisory Commission on Intergovernmental Relations, Washington, D.C., 1977, Chap. VII.

42. State Mandating of Local Expenditures, Report A-67, Advisory Commission on Intergovernmental Relations, Washington, D.C., July 1978; Peggy Cuciti, Federal Constraints on State and Local Government Actions, paper prepared for the Office of Intergovernmental Relations, Congressional Budget Office, Washington, D.C., January 1979; Paul L. Posner and Stephen M. Sorett, "A Crisis in the Fiscal Commons: The Impact of Federal Expenditures on State and Local Governments," Public Contract Law Journal, 1978, pp. 341-378. Also see Lovell et al., Note 40.

43. Op. cit., p. 169.
44. Op. cit., p. 195.
45. Impact of Federal Paperwork on State and Local Governments: An Assessment by the Academy for Contemporary Problems, Commission on Federal Paperwork, Washington, D.C., 1977.
46. Paul L. Posner and Stephen M. Sorett, op. cit., p. 360.
47. Rutherford v. Pitchess, 57 F. Supp. 104 (1977).
48. Quotation and cost estimates from Timothy B. Clark, "Access for the Handicapped--A Test of Carter's War on Inflation," National Journal, October 21, 1978, pp. 1672-1675.
49. A juvenile status offense is an act that is unlawful when done by a juvenile and not unlawful when done by an adult (e.g., running away from home).
50. "Board Approves Transportation Agency," Hanford Sentinel, May 23, 1979.
51. A Study of the Local Government Impacts of Proposition 13--Vol. I, op. cit., p. 15.
52. Press release of election day poll conducted by CBS news for its Los Angeles station and the Los Angeles Times.
53. An Historical and Comparative Analysis of Expenditures in the City of New York, Temporary Commission on City Finances, New York, 1976.
54. Paul L. Posner and Stephen M. Sorett, op. cit., p. 355.
55. Pursuant to federal and state laws, district attorneys are responsible for investigating, processing, and prosecuting complaints against absent fathers for failure to provide support for their children. For further information about this function, see Timothy J. Lee, "District Attorney Collection of Child Support: The Need for Reform," California State Bar Journal, April 1980, pp. 156-161.
56. The Intergovernmental Grant System as Seen by Local, State, and Federal Officials, Report A-54, Advisory Commission on Intergovernmental Relations, Washington, D.C., 1977.
57. William H. Oakland, op. cit., p. 403.
58. Harry L. Hufford, Recommendations for the Proposed 1979-1980 Budget, Los Angeles, California, April 24, 1979, p. 2.
59. Salas v. Cortez, 24 Cal. 3d 22 (1979).

60. Examples in which demands that are shed by one criminal justice agency must be picked up by another agency are discussed in Section 3.3.2.
61. A nationwide survey of police departments showed that in 1973 less than 15 percent of departments experienced a felony rejection rate over 20 percent (P. W. Greenwood et al., The Criminal Investigation Process, Lexington Books, 1977). During the same year, the typical California felony arrest had a 29 percent chance of not being prosecuted at all and only a 33 percent chance of being prosecuted as a felony. (The remaining 38 percent were prosecuted as misdemeanors.) Source: California Offender Based Transaction Statistics, 1973.
62. Herman Goldstein, Policing a Free Society, Ballinger, Cambridge, Mass., 1977.
63. Lisa Adler, "Juvenile Justice: Will Money Decide Its Path," Beverly Hills Independent, January 31, 1980, p. 1.
64. For more details and other examples, see Anthony H. Pascal, User Charges, Contracting Out, and Privatization in an Era of Fiscal Retrenchment, The Rand Corporation, P-6471, April 1980.
65. Anthony H. Pascal and Mark David Menchik, Fiscal Containment: Who Gains? Who Loses?, The Rand Corporation, R-2494/1-FF/RC, September 1979.