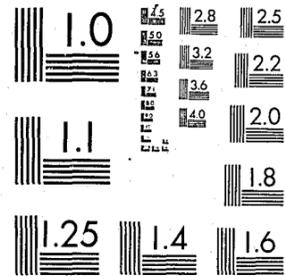


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9/30/81



Honorable Brendan T. Byrne  
Governor

# AN INSTITUTIONAL RESPONSE TO THE RISING CRIME RATE IN NEW JERSEY

78237

Submitted by:

J. Degnan, Attorney General  
in H. Stier, Director  
Division of Criminal Justice  
Colonel Clinton L. Pagano  
Superintendent, N.J. State Police

December 1, 1980



JOHN J. DEGNAN  
ATTORNEY GENERAL

STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
STATE HOUSE ANNEX  
TRENTON, N. J. 08625  
609 292 4919

December 1, 1980

Honorable Brendan T. Byrne  
Governor  
State House  
Trenton, New Jersey 08625

Dear Governor:

I am pleased to forward to you my report which responds to your request that this office study the recent rise in New Jersey's crime statistics and make recommendations for stemming the spiraling crime rate that they evidence.

I fully expect the 1980s to present the citizens and leaders of our State with an ongoing challenge, requiring us to make basic choices regarding the quality of our lives. I am reminded of the words of the late Chief Justice Joseph Weintraub: "Pre-eminent in the galaxy of values is the right of the individual to live free from criminal attacks in his home, his work, and the streets." As this State declared war on political corruption and organized crime some ten years ago, so today must it seek not only to contain but eliminate violent street crime. It is my firm conviction that with the submission of this report, the first step has been taken to meet the challenges of this decade.

Although I have had preliminary conversations with state and local components of the law enforcement system, there is an urgent need to circulate this report, to hold public hearings on it, to consider the views expressed in that context, and perhaps to refine some of its recommendations. I shall begin that process immediately.

Sincerely,

JOHN J. DEGNAN  
Attorney General

**NCJRS**

MAY 10 1981

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TABLE OF CONTENTS

Foreword by Attorney General .....	i
Introduction .....	1
Part I - Improving Police Services .....	5
Uniform Standards .....	7
Funding Alternatives .....	12
Complementing Local Resources Through State Services .....	15
Part II - Improving the Criminal Justice Process	
Newark Robbery Prevention/Investigations Project and Essex County Career Criminal Program .....	18
Career Criminal .....	20
Speedy Trial .....	24
Victim/Witness .....	27
Medical Examiner System .....	30
Private Security .....	33
Crime Prevention .....	35
Sentencing and Parole .....	38
Corrections .....	41
Juvenile Justice .....	43

FOREWORD BY THE ATTORNEY GENERAL

THIS report was originally due on Governor Byrne's desk in March of this year. As March approached, it became increasingly clear that the deadline would not be met, and, indeed, could not be met. The task was straightforward enough: prepare a plan of action in response to the recent precipitous rise in the street crime statistics in New Jersey. But the simplicity of the mandate belied the complexity of the problem; so much so that after several drafts of the report had been completed, we decided that the fundamental premise on which

those drafts were based had to be changed. My original letter of transmittal to the Governor contained the following statement:

"While I cannot profess an ultimate answer to the growing problem of crime in our streets, I am confident that the recommendations contained in this report push to the limit the institutional constraints within which law enforcement operates."  
(emphasis added)

Unfortunately, the first portion of that statement is still accurate. I cannot and do not profess an ultimate answer to the problem of street crime. But the implicit proposition contained in the latter part of the statement, namely that our present institutional constraints are somehow sacrosanct, ultimately could not stand unchallenged; certainly not in the face of the clear and present danger posed to the citizens of this State by crime in the streets.

One might well ask if that assessment of the situation isn't overly dramatic and won't obviously produce an overreaction. I am convinced that it is not. The dimension of the problem facing New Jersey and the nation in the area of street crime is, at the outset of this decade, monumental, and it will take a monumental rethinking and alteration of law enforcement/local government relationships to handle it. The enormity of it all cannot be seen merely from cold impersonal statistics, however dramatic they may be. The problem lies in the paralysis of fear that grips each of us when we must make a conscious decision

over whether to go out at night or whether to let our children walk the few blocks to a friend's house. The problem lies in the irony of a shrinking urban tax base and reduced Federal assistance at a time when soaring costs alone are enough to hamper law enforcement efforts. The problem lies in the ambivalence we have exhibited until now in making the choice to take back our streets, our neighborhoods and our cities from the criminal and his element. That kind of problem, simply put, necessitated a reappraisal of "the institutional constraints within which law enforcement operates." The following report is the product of that reappraisal.

Part I of the Report is its bedrock. Entitled Improving Police Services, it contains recommendations that, if implemented, would complete the process of integration of the criminal justice system which was begun ten years ago. At that time, the Legislature designated the Attorney General the chief law enforcement officer of the State and vested in his office the responsibility for the uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the State. Since then, that system has become the envy of most other states' attorneys general. Indeed, New Jersey's criminal justice system is today viewed as a model by the federal law enforcement community as well. The relationship which has developed between the Attorney General and the State law enforcement agencies on the one hand and the county prosecutors on the other is one characterized by mutual respect and professional support. That

kind of relationship could only have been nurtured within the context of an integrated system. It is that realization that makes the need to complete the process of integration so compelling. By making the local police establishment a full-fledged partner to a unified law enforcement community, support can be given and transferred; resources can be shifted to areas of immediate need; technology and "state-of-the-art" information can be shared; and uniform performance and training standards can be developed -- not by fiat, as I anticipate some will fear, but through mutual support and cooperation -- these proposals are by no means intended to displace local control.

If ten years of performance under the Criminal Justice Act has shown us anything, it has shown us that fears that State supervision would usurp local control are unfounded. What we propose is the development of a system that ensures the citizens of the state a basic minimum of security and safety. And the way to do that is through the local police force. Governor Byrne stated in his annual message that "[t]he first defense against the predators in our midst is the local police force." I consider it the State's solemn obligation to take every step necessary to assist them in the fulfillment of their mission.

In Improving Police Services, the Report details the need to develop minimum statewide police, training, performance, and entry standards. It suggests the need to specifically empower the Attorney General with limited authority to intervene when

necessary to guarantee the delivery of an appropriate level of basic police services to a given community. It proposes, among other measures, the idea of limited "cap" waivers to insure the adequate delivery of police protection. Finally, this portion of the Report discusses the concept of a State Police Metro Task Force, a limited assignment of State Police personnel, after consultation with municipal authorities, to high crime urban areas in situations where state resources can effectively complement local efforts.

I recognize the dramatic departure from the norm that these recommendations represent and the resulting temptation to look for hidden motives. Indeed, the proposed Metro Task Force, which in the short run can only be viewed as an interim measure, may well foreshadow the need to reorient the New Jersey State Police on a long term basis toward urban crime control; and this, of course, would substantially alter the basis on which the Division currently operates. But I am convinced that proposals such as these are warranted by recent crime figures and the need for sound fiscal and resource management.

December 1, 1980

J.J.D.

## INTRODUCTION

The dimensions of the street crime problem facing New Jersey can be readily seen from the following analysis of the most recent Uniform Crime Report statistics.

The fourteen cities<sup>1</sup> designated as urban in character by the State Office of Demographic and Economic Analysis, with populations of 50,000 or more, represent 20 percent of the

1

Newark  
Jersey City  
Paterson  
Elizabeth  
Trenton

Woodbridge Twp.  
Camden  
Clifton  
East Orange  
Bayonne

Irvington  
Vineland  
Union City  
Passaic

state population (1,502,463), and are responsible for over 31 percent of the total Crime Index <sup>2</sup> (425,890) recorded in the state during the latest publicized 12 month release (January - December 1979). This serves to confirm one of the most fully documented facts about crime, namely, that the serious offenses that victimize our citizenry most -- murder, rape, robbery, aggravated assault, burglary, larceny, and motor vehicle thefts -- occur most often in the urban sectors of the state.

Significantly, these 14 high density urban cities affect the state's overall crime profile in a very dramatic manner. They account for:

- 59% (21,556), or nearly six out of every ten violent crimes (murder, rape, robbery, aggravated assault);
- 60% (288) of all murders;
- 49% (979) of all forcible rapes;
- 60% (12,475) or approximately seven out of every ten robberies;
- 49% (7,811) of reported aggravated assaults; and
- 48% (24,714) of all motor vehicle thefts.

Included within these 14 urban cities are New Jersey's six major municipalities representing 13 percent (980,206) of the State's total population. They are Newark, Jersey City, Paterson, Elizabeth, Trenton and Camden. The statistics reflecting reported crimes in these six major cities during the year of 1979 (January-December) compared with the State's total

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<sup>2</sup> Murder, rape, robbery, aggravated assault, burglary, larceny, and motor vehicle theft.

crime index were noteworthy. Of the total reported crime, the six major cities accounted for:

- 23% (96,982) of all the State's index offenses;
- 49% (18,036) of the violent crimes (murder, rape, robbery, aggravated assault);
- 54% (259) of all murders;
- 39% (782) of the forcible rape offenses;
- 59% (10,687) of the reported robberies;
- 40% (6,308) reported aggravated assaults; and
- 36% (18,115) of all motor vehicle thefts.

Clearly, these statistics supply us with a dramatic illustration of the magnitude of the street crime problem. This report addresses the problem in two parts: Part I deals with improving the delivery of police services, particularly with regard to safety on our streets. Our primary focus is on quality. Minimal standards for police selection, training and performance should be articulated and a stronger working relationship should be developed between state and local law enforcement personnel. Reorganization within the Division of Criminal Justice is recommended to establish a capacity for providing assistance to local police departments in this regard. Funding alternatives are suggested that would give local resources a much-needed boost in reaching and maintaining necessary police service levels. Finally, a State Police Metro Task Force is proposed in order to complement local law enforcement resources with State services.

Part II of the Report discusses the current operation of our criminal justice system and contains recommendations for certain "in-house" improvements. It also focuses on several long-range policy considerations that raise questions about our present list of priorities in the criminal justice area. For example, we recommend continuation and expansion of the Newark Robbery Prevention/Investigations Project, the Essex County Career Criminal Program, other similar career criminal programs, victim/witness programs and the speedy trial program being implemented by our County Prosecutors in conjunction with the Administrative Office of the Courts. In addition, we recommend upgrading of the current Medical Examiner System and regulation of the blossoming private security industry.

With regard to criminal dispositions, we suggest an expansion of "strict" prosecution and sentencing alternatives for adults and juveniles where appropriate, accompanied by a reconsideration of our focus on crime detection and prosecution. We believe that the interests of deterrence and rehabilitation may be furthered by increased use of mandatory sentences, particularly where handguns are involved in the crimes being prosecuted. Clarity in our attitude toward juvenile crime is also advisable -- we are currently examining the entire juvenile justice process with an eye towards integration and, perhaps, centralization of the juvenile justice system.

PART I  
IMPROVING POLICE SERVICES

As dramatically as the uniform crime statistics portray the level of violent crime in New Jersey and its urban centers, it is important to understand that the police resources in these urban centers are severely strained by the need to devote a large percentage of patrol hours to other calls for service. Past studies in this area have shown that large urban police departments devote perhaps as much as 90 percent of their patrol time to non-crime related matters: traffic control, accident investigations, and family disputes, among others. One large police department in New Jersey responded to over 100,000 calls for service in 1979, representing more than one call for every individual in the city's population.

At the same time that these uncontrollable demand factors place ever-increasing burdens upon the resources of local police departments, economic strains imperil mere maintenance of the current level of available services. Indeed, the combination of inflation, a shrinking tax base, the impending loss of federal funds and "cap" constraints may dictate significant law enforcement cutbacks at the local level. In short, the supply side of the equation needs to be addressed in a way that at once recognizes fiscal realities and yet enunciates and more importantly preserves a satisfactory level of police protection and service to all of New Jersey's citizens.

To achieve that goal, it is necessary, first, to establish minimum levels of police protection and service. Since that

level should meet the needs of each citizen irrespective of residential environment or geographic or political subdivision, the authority to set such standards should be centralized with appropriate limitations. Second, and in light of established minimum standards of police protection and service, funding alternatives must be considered that will allow for their uniform provision. Again, with appropriate limitation, the authority to invoke such alternatives should be centralized.

Finally, the need to provide immediate and perhaps dramatic short term crime control assistance to urban centers that could benefit thereby requires a State response. New Jersey's local police are as highly-motivated and hard-working as any of their counterparts in the nation. The frustrations they have experienced in their efforts against street crime do not result from lack of dedication, but rather from the failure of our institutions to give them all the tools to do the best job possible. While we fully recognize the need for local control over the daily operations of county and municipal law enforcement agencies, our present dilemma testifies to the need for new initiatives which will ensure greater State assistance to local police departments in their efforts to provide the highest possible quality of law enforcement service.

#### Uniform Standards

The necessity and desirability of minimum statewide standards for police training and performance have been discussed at length in several prestigious reports.<sup>3</sup> Generally, these reports have identified three major areas of concern that will require extensive review and study:

1. Definition of a logical scale of organization for law enforcement services in various jurisdictions. (Both the National Advisory Commission on Criminal Justice Standards and Goals - Report on Police (1973) and the Governor's Adult and Juvenile Justice Advisory Committee (1977), recommend the elimination of police departments with fewer than ten officers by 1980). There are currently 180 police departments in New Jersey with fewer than ten officers.
2. Definition of law enforcement operational capabilities based on the available resources within each jurisdiction, including incorporation of county services, such as the investigative capabilities of the County Prosecutor's Offices where and when required.
3. Establishment of guidelines and standards for attaining these capabilities.

The lack of management and performance standards may be the most critical problem affecting the operation of New Jersey's police departments, and should be addressed by a centralized comprehensive effort at the state level. There is a need to develop a relationship between local police depart-

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<sup>3</sup> See Aspects of Law Enforcement in New Jersey, County and Municipal Government Study Commission, 1976; Police, National Advisory Commission on Criminal Justice Standards and Goals, 1973; Standards for the New Jersey Municipal and County Policing System: A Plan of Action, Report of the Police Training Commission, 1977; Standards and Goals for the New Jersey Criminal Justice System: Final Report, Governor's Adult and Juvenile Justice Advisory Committee, 1977.

ments and the state similar to the relationship now in existence between the Attorney General's Division of Criminal Justice and the county prosecutors.

The suggestion is not a new idea, having been discussed in the recommendations of the Joint Legislative Committee to Study Crime and the System of Criminal Justice in New Jersey (Forsythe Committee), 1968; the County and Municipal Government Study Commission Report entitled "Aspects of Law Enforcement in New Jersey," 1975, and more recently in the Governor's Adult and Juvenile Advisory Committee, 1977. We ought to align ourselves with those standards and goals. However, compliance should proceed in a manner compatible with New Jersey's integrated law enforcement system and with respect for the legitimate interests of other governmental agencies.

We recommend, therefore, the formation of a Law Enforcement Advisory Council appointed by the Governor with the advice and consent of the Senate, to consult with and assist the Department of Law and Public Safety in developing standards and goals. The Council should include representatives from the Division of Criminal Justice, the New Jersey State Police, the County Prosecutor's Association, county and municipal government, Chiefs of Police, organizations of rank-and-file police personnel, the public, and the academic community. We contemplate that the Advisory Council would be a permanent structure, providing on-going review and advice. It could be vested with the power to ratify the decisions made by the Attorney General. At the outset, the Council's mandate would be to assist in development of standards in the following areas: (1) recruit-

ment and selection; (2) training; (3) resource allocation; and (4) performance standards.

Fundamental to the objective of improving law enforcement services is the ability to recruit and select the best possible candidates. At present, police entrance level criteria vary, and there is, therefore, a need to identify and establish meaningful minimum selection criteria for all law enforcement officers in the State. Commensurate with the selection of the best candidates is the obligation to provide the required training. Although New Jersey was one of the first states to mandate basic training, there has been minimal progress in developing and delivering current in-service and management training programs. A comprehensive master plan of training must be developed to coordinate pre-service, in-service and management training programs.

In order to provide a mechanism for ensuring that there is compliance with these uniform standards once they are promulgated, we recommend the enactment of legislation which would make more specific the Attorney General's responsibility to intervene when necessary to guarantee an appropriate level of basic police services.<sup>4</sup> This legislation should recognize the present system in which local compliance with directives of the Attorney General, as chief law enforcement officer, is provided through the Division of Criminal Justice, the State Police, and the county prosecutors.

<sup>4</sup>

This power exists implicitly in N.J.S.A. 52:17B-101.

The capability of local police departments varies widely among the approximately 476 municipal police departments in New Jersey today. The departments range in size from as few as five officers to as many as 1,000. Sound technical assistance must be developed and provided to improve police organizations, management, and operation throughout the State.

We recommend that there be an appropriate reorganization within the Division of Criminal Justice and the New Jersey State Police to establish a capability for providing such assistance to local police departments and facilitating implementation of the uniform standards. By combining their own resources with those presently allocated to the Police Training Commission, the Divisions can broaden the scope of technical services available to county and municipal law enforcement agencies. This new component within the criminal justice system will centralize supervisory and assistance functions in highly-qualified law enforcement professionals, assuring that there is maximum utilization of new programs and techniques at the local level.

Even prior to the formation of the Advisory Council and promulgation of performance standards, this new police advisory unit would begin to provide technical assistance in the form of management studies of local police agencies. This initial period of operation would also be used to establish a regular line of communication among all levels of law enforcement, as well as other agencies and organizations interested in the delivery of public safety services. The relationship thereby created would provide a mechanism for identifying problems

confronting law enforcement and assisting in the formulation of programs to improve police services throughout the State.

With the impending demise of the Federal Law Enforcement Assistance Administration (LEAA), the new unit would also assume responsibility for some of the services formerly provided to the law enforcement community by the State Law Enforcement Planning Agency (SLEPA). Although federal block grant and planning funds would be eliminated, the police advisory unit could play a role in coordinating any discretionary funding or other services which would still be available from Washington. The unit would also advise local police departments concerning new and pending legislation affecting the law enforcement services.

## Funding Alternatives

With the sole exception of public education, law enforcement services command the largest portion of funds in municipal budgets. Our citizens are entitled to expect that they will receive the most effective police service possible in return for this large expenditure of their tax dollars. Unfortunately, factors already discussed in this report have made it increasingly difficult for our police departments, which have exhausted local resources, to meet the increased demands placed upon them. The State has a legitimate role and responsibility to assist police in developing and implementing alternative methods for meeting this demand and reducing the fiscal constraints now confronting our municipalities.

Thus far the State has provided fiscal relief to local departments through the awarding of grants for law enforcement projects. The primary source of such funding has been SLEPA, within the Department of Law and Public Safety. SLEPA grants have supported a number of programs in various areas. Funds from this source have allowed over 50 local jurisdictions to initiate joint police/community crime prevention efforts, improve police communications systems, develop alternative patrol strategies, and implement crime specific projects, (robbery, sex crimes, narcotics, organized crime and arson), with a goal of reducing the occurrences of these crimes. The full impact of these efforts has not yet been realized, however, and the advent of funding termination will likely reduce any future progress in those areas.

Another significant source of additional revenue, especially to larger municipalities, has been allocated by the Department of Community Affairs through the Safe and Clean Neighborhoods Program. Funds for this program are presently earmarked exclusively for the addition of walking patrols.

The severe cutback of federal appropriations to LEAA, which was the chief source of funds distributed through SLEPA, threatens continuation of grants for existing and new local law enforcement projects. To the extent that State funds for such purposes remain available, however, we recommend that responsibility for distribution be centralized in the Department of Law and Public Safety. The State's chief law enforcement officer, charged with responsibility for ensuring professional performance at all levels of the criminal justice system, should be empowered to oversee disbursement and monitor utilization of these funds. Also important is the enactment of legislation to increase local discretion in the permissible uses of Safe Neighborhoods funds.

In light of the probable reduction of federal-state law enforcement grants, it may be necessary to relax "cap" restrictions to the extent that they inhibit municipalities from providing essential police services. Therefore, we invite legislative consideration of limited "cap" waivers to be granted as a last resort when clearly necessary to guarantee that localities are able to deliver the minimum acceptable level of law enforcement services. The authority to grant any such waivers should be vested in the Attorney General, whose Department

possesses the expertise to make a professional assessment of these requests.

Finally, given the State's ultimate responsibility for protecting the public's constitutional right to safety, the Attorney General should be given a remedy to be invoked when it is shown that any local government has not provided its police with the resources necessary to meet their law enforcement responsibilities. Accordingly, we urge consideration of vesting the Attorney General with the authority to act administratively, in very limited situations, to protect the public from being deprived of vital police services.

#### Complementing Local Resources through State Services

As previously discussed, we are firmly committed to New Jersey's long standing tradition of local law enforcement as the best and first line of defense against street crime. Nonetheless, we are fully prepared to face the reality that, in some areas, urban crime has reached such a level that we cannot afford the time which will be necessary to implement the proposals set forth earlier in this report. Therefore, the State must be willing to dedicate a portion of its own resources to the war on street crime. We are compelled to balance our priorities and be prepared, if necessary, to make a choice between, for example, urban safety and highway patrols. In the short term, it may be necessary to divert some State law enforcement resources but, in the long term, we can provide assistance through expansion of these resources. The assignment of State Police personnel to urban areas, after consultation with municipal authorities, is a logical next step in the ongoing evolution of that organization, which was once primarily a rural police force.

Almost immediately we can establish a State Police Metro Task Force. With a relatively nominal budget increase, State Police patrols could be committed to major city high-crime areas on an alternating basis. This action would provide a highly visible, effective and measureable

State level response to an urban crime problem now approaching crisis proportions. The plan is designed to augment the effort of major city police departments that are frequently inundated by calls for service and other routine police activities, thus precluding the capacity to mount concentrated crime suppression efforts.

Under this proposal State Police patrol action would concentrate on clearly delineated areas for a specified length of time. The objective would be limited to suppressing violent street crimes and armed robberies of certain commercial establishments. Tactics would include responding to crime-in-progress alarms in an effort to arrest suspects at or near the scene, otherwise apprehending fugitives and establishing a patrol presence which would inhibit the commission of armed robberies, muggings and assaults. Other innovative techniques, such as use of decoys, could be considered and tested on trial bases, making our city streets laboratories for crime fighting.

City police would continue responding to all calls for service as well as performing all routine investigative activities. A high degree of cooperation and mutual support by city and state police would be essential. Thus, a major effort in establishing a working rapport would be part of the preparations for implementation of the Task Force. The pattern for success of well designed, limited objective tactical operations has been amply

demonstrated by the New York City police in the 1960's and by State Patrols in New Orleans and Atlanta in 1979.

Deployment of the Task Force to its first assignment would be possible within 60 days.

PART II.

IMPROVING THE CRIMINAL JUSTICE PROCESS

Newark Robbery Prevention/Investigation Project and Essex County Career Criminal Program

Newark, the largest city in New Jersey, with a population in excess of 300,000, has one of the largest police departments in the country, consisting of over 1,000 officers. In 1979, there were 40,612 reported crimes in Newark, of which 9,828 were violent and 30,784 were nonviolent. These figures represent increases of 41 and 21 percent respectively, compared to the previous year. The 6,185 reported robberies in 1979 was a 65 percent increase over 1978, and represented a comparison of 34 percent of the statewide total.

The proportion of crimes that occurs in Newark is so large that it is apparent that an analysis of Newark's experience is crucial to an understanding of the statistical rise in New Jersey's crime rate. Newark is one of the oldest urban areas in the State and is currently facing severe social and economic problems that are affecting not only the rate of crime but the city's ability to provide adequate police services. As a result of recent financial problems, Newark has been forced to lay off city employees. Approximately 200 police officers were laid off in December of 1978, and vacancies occurring through attrition have not been filled. Numerous civic, business and community groups as well as governmental agencies have requested intervention by the State to review and identify the factors relating to the perceived or actual performance of the police department.

In response to those concerns the Attorney General and the Director of the Division of Criminal Justice have met on several occasions with Newark's Mayor and Police Director and the Essex County Prosecutor. As a result of these meetings, an aggressive multi-agency attack on street crime (particularly violent robberies) has been developed and funded through the State Law Enforcement Planning Agency.<sup>5</sup> Under this new program, the Newark Police Department has organized an Anti-Robbery Unit, consisting of specially-trained teams of officers who respond exclusively to violent robberies in high crime areas of the city. To complement this endeavor, and to insure swift and effective prosecution of those criminals who are apprehended by the Newark Anti-Robbery Unit, the Essex County Prosecutor is forming a Career Criminal Prosecution Unit that will devote special attention to those chronic and dangerous offenders whose arrests are a by-product of the Newark program. In order to provide for maximum coordination of these two units, and to insure program success, the Division of Criminal Justice is assisting in their design and development, will monitor them on a regular basis, and will evaluate the impact of these programs on the city's street crime problem.

It is anticipated that by channelling combined state, county and municipal resources in this fashion, violent offenders who prey on the citizens of our State's largest city will be promptly apprehended, prosecuted, convicted and incarcerated.

<sup>5</sup> To the extent that the implementation of this and other programs depend upon federal funding, the abolition of the Law Enforcement Assistance Administration (LEAA) will hamper efforts in these areas.

## Career Criminal

It has been statistically demonstrated through data collected in recent offender-based studies -- specifically the LEAA-sponsored<sup>6</sup> PROMIS program -- that a small percentage of individuals are responsible for a disproportionately large percentage of reported crime. This fact, coupled with the fact that a convicted repeat offender stands only five chances in 100 of serving a sentence that includes incarceration, indicates that the odds are definitely on the side of the "career criminal."

A recent survey reveals that more than one-third of prison inmates interviewed stated that they had committed approximately 40 crimes per year for the three years prior to being incarcerated and that crime was their career of choice.

The career criminals' familiarity with the system and its inner workings gives them the opportunity to manipulate it to their advantage. This knowledge enables them, if apprehended, to take full advantage of crowded court calendars and overburdened prosecutors by plea bargaining.

The problems associated with plea bargaining are widespread, and offenders take advantage of it. Caused by overcrowded court calendars and, in many cases, by the existence of weak or poorly prepared cases, plea bargaining often is the only way the prosecutor can obtain a conviction.

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<sup>6</sup>

See note 3.

By going for a lesser charge, the prosecutor accedes to the improbability of long-term incarceration. As a result, the criminal justice system provides very little impediment to the momentum of criminal careers, even after the offenders are apprehended.

The New Jersey Career Criminal Program, operated jointly by the Division of Criminal Justice and the Prosecutors' offices in Hudson, Passaic, Camden, Mercer and Atlantic Counties, is designed to focus substantial attention and resources on serious recidivist defendants. The goal of the program is to ensure and expedite the full prosecution of those persons whose criminal histories indicate repeated commission of dangerous criminal acts (i.e., robbery, forcible sexual offenses, aggravated assaults, burglary, and in some circumstances, homicide). The program has two major thrusts: 1) rapid identification of the serious recidivist after apprehension, and 2) acceleration of case processing and obtaining top charge convictions of those identified.

Based upon the results thus far obtained, there is sufficient objective evidence to conclude that the projects have been successful. In particular, we can point to an increased conviction rate, a decreased post-indictment dismissal rate, increased incarceration rates and increased sentence length. In addition, a somewhat more subjective observation indicates heightened unit morale and enthusiasm for the program and evidence of good victim/witness cooperation.

The following charts show the objective data:

COMBINED HUDSON AND PASSAIC  
DISPOSITIONS  
BEFORE AND AFTER ESTABLISHMENT OF  
CAREER CRIMINAL PROGRAM

12 Months After Arrests

	<u>BEFORE</u>		<u>AFTER</u>	
	<u>No. of Defendants</u>	<u>Percent</u>	<u>No. of Defendants</u>	<u>Percent</u>
Convictions	211	79%	164	93%
Pleas	161 (60%)		124 (70%)	
Trial	50 (19%)		40 (23%)	
Acquittal	19	7%	8	4%
Dismissals	38	14%	5	3%
<b>TOTAL</b>	<b>268</b>	<b>100%</b>	<b>177</b>	<b>100%</b>

INCARCERATION RATE FOR COMBINED  
HUDSON AND PASSAIC COUNTIES  
BEFORE AND AFTER ESTABLISHMENT OF  
CAREER CRIMINAL PROGRAM

(Case Disposition)  
12 Months After Arrest

Chart A Incarceration Rate for Defendants Convicted and Sentenced

<u>Period</u>	<u>No. of Defendants</u>	<u>No. Incarcerated</u>	<u>Percent</u>
Before	211	170	81%
After	139	127	91%

SENTENCE SEVERITY FOR COMBINED  
HUDSON AND PASSAIC COUNTIES  
BEFORE AND AFTER ESTABLISHMENT OF  
CAREER CRIMINAL PROGRAM

Case Dispositions

12 Months After Arrest

Breaking and Entering

	<u>No. of Persons Sentenced</u>	<u>Sentence - Years</u>	<u>% Change</u>
Before	77	2.9	-
After	60	4.2	+45%

Robbery

Before	31	8.8	-
After	28	10.5	+19%

DISMISSAL RATES FOR COMBINED  
HUDSON AND PASSAIC COUNTIES  
BEFORE AND AFTER ESTABLISHMENT OF  
CAREER CRIMINAL PROGRAM

Case Disposition

12 Months After Arrest

<u>Period</u>	<u>No. of Defendants</u>	<u>No. of Dismissals</u>	<u>Percent</u>
Before	268	38	14%
After	177	5	3%

### Speedy Trial

The constitutional right to a speedy trial includes the interest of the public in the prompt disposition of criminal cases, an interest which is often given scant recognition. A speedy trial is necessary to preserve the means of proving the charge, to maximize the deterrent effect of prosecution and conviction and to avoid, in some cases, an extended period of pretrial freedom by the defendant during which time he may flee, commit other crimes, or intimidate witnesses. It is, therefore, clear that it is in the best interest of society to implement speedy trial programs which vindicate the rights of the public as well as defendants.

Much has been said and written about the concept of speedy trial. Governor Byrne specifically addressed this subject in the Annual Message of 1976, and since that time numerous proposals have been considered for advancing the concept in New Jersey. Through the efforts of the Attorney General and county prosecutors, we have seen a reduction in the time it takes to process criminal complaints from arrest through indictment. However, court congestion continues to frustrate ultimate speedy trial goals and the public interest in promoting expeditious disposition of criminal cases.

Any program to move cases more rapidly must take into account the procedural devices required to protect the rights of the defendant and ensure the integrity of the fact-finding process. But the present average delay of one year

between arrest and disposition is not a requirement of "due process" and undermines the reliability of the evidence upon which a jury will ultimately base its determination of the truth. As delay increases, we run the risk of witnessing the transformation of the criminal justice system into a game of manipulation, delay and injustice. A speedy trial program properly conceived and implemented will benefit all of the participants in the criminal justice system as well as the public as a whole.

We should not underestimate the complexity of the process of reformation of the criminal justice system required to bring about a significant reduction in delay. Many of our problems stem from longstanding habits and assumptions that long periods of time between the numerous stages of a criminal case somehow assure care and thoroughness at each stage. It would be a relatively easy task if we could identify a single impediment to speedy trials and focus our efforts on overcoming that one obstacle. Unfortunately, there is no single problem. Rather, there appears to be a variety of obstacles causing unnecessary delay between the stages of a criminal case. Therefore, a program must be developed which will operate on a continuing basis to monitor the entire criminal justice system in each county, identify current causes of delay and bring together those participants in the system who are best able to resolve the problem.

The Attorney General, through the Division of Criminal Justice, recognized the need for, and provided the ideas and staff to implement a pilot speedy trial program. In his 1980 Annual Message, Governor Byrne directed the full cooperation of the Executive Branch to the implementation of the program. Complementing that directive, Chief Justice Robert N. Wilentz called upon the Public Advocate, the County Prosecutors and the Attorney General to cooperate in the formulation of measures which will insure implementation of that goal. Task Forces appointed by the Chief Justice reported on the speedy trial issue at the June 1980 Judicial Conference. These Task Forces<sup>7</sup> studied broad issues and made recommendations for rule changes and policy innovations. Demonstration projects, which were being conducted in Union, Passaic, Gloucester and Somerset Counties, were also discussed at the Conference. Since the Conference, these demonstrations are continuing and are being studied by local planning groups formed throughout the state with an eye toward development of like programs. Together with the Administrative Office of the Courts, the Division of Criminal Justice and the County Prosecutors are developing an information system which is known as PROMIS/GAVEL, to provide a case management system which will be capable of producing the data to support a speedy trial program.

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<sup>7</sup> Two Task Forces were created. One was devoted to studying and recommending changes for preindictment case processing and the other concerned itself only with post-indictment case processing.

#### Victim/Witness

The criminal justice system is, of necessity, offender oriented. It is the offender's actions which trigger the system into operation. The primary reason for the system's existence is to have sufficient impact on the offender so as to ensure that he cannot or will not transgress the law again. Traditionally, if the focus of the criminal law has gone at all beyond the offender, it has been directed at society as a whole. Drawn through no fault of his own into the justice system, the crime victim is obligated as a citizen to participate in the criminal prosecution, frequently at considerable self-sacrifice. Not infrequently, the victim is required to make several appearances and asked to recount the minute details of what may have been a horrifying event. At times police and prosecutors may appear insensitive to the victim's anguish. While the criminal justice system may ultimately achieve retribution for the offender's affront to society, the individual victim is left largely to his own resources in dealing with economic and physical injury. Often, no one takes the time to explain to the victim why this has to be, or offers guidance to the victim as to what resources may exist for obtaining some measure of remedy for his loss. Other witnesses, not themselves victims, have been similarly neglected.

The criminal justice system should address the needs of victims and witnesses with greater sensitivity. More practical considerations also mandate action. Frustration with delay and inconvenience leads some victims and witnesses to

lose interest in a case or to cease to cooperate with the prosecution. These reactions often result in acquittals or outright dismissal of charges. Additionally, the public at large has become aware of the deficiencies in the treatment of victims and witnesses by the criminal justice system. Resulting cynicism and distrust has led to victim's failing to report crimes and witnesses' failing to come forward in the first instance.

In 1978, the Division of Criminal Justice and the County Prosecutors Association jointly published The Prosecutors Manual, which is a statement of uniform policy for Prosecutors' Offices. Included in the chapter devoted to victim/witness services is the specific recommendation that a victim/witness assistance unit be established in every office. In spite of severe budget constraints, eight Prosecutors have been able to translate this recommendation into action by creating units in their offices. Other Prosecutors have cited development of victim/witness services as a high priority. Victim services programs have been established in two of the State's major urban police departments (Unfortunately, one of these programs has been forced by financial limitations to suspend operations).

Still, the system is hampered by insufficient services. Even with the addition of programs now in the planning stage, fewer than half of New Jersey's prosecutors will have victim/witness programs in their offices. Further, there is a lack of uniformity in the type and level of services offered.

While the disparities are no doubt partially rooted in the differences between the communities served by the various programs, they must also be attributed to the absence of statewide standards for uniform delivery of victim/witness services. The Attorney General, through the Division of Criminal Justice, being in a unique position to address the deficiencies in New Jersey's victim/witness services, has been awarded one of only six LEAA grants<sup>8</sup> to fund a statewide victim/witness coordination project.

The staff of the project is already in place and is actively working with the Governor's Victim/Witness Advisory Council. Development and implementation of standards for prosecutor and police service programs is currently underway, through preparation of a model program. In addition, a victim/witness services directory is being compiled. Also, a network has been created to provide a clearinghouse for information on new strategies and techniques in victim/witness services.

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See note 5.

### Medical Examiner System

In 1968, the Legislature enacted the "State Medical Examiner Act", in an attempt to improve the Medical Examiner's function which had traditionally been performed by a county coroner. Although there has been significant progress since that time, the State Medical Examiner, the Division of Criminal Justice and the State Commission of Investigation, have focused on areas where further improvement is needed and have identified two major problems. First, the State Medical Examiner has not been able to exercise the strong centralized control which is essential to an integrated system. Second, many of the county medical examiners on the county level are not qualified pathologists and, thus, are unable to fulfill their obligations to the public.

The present law grants the State Medical Examiner general supervisory power over all county medical examiners and gives him rule making and regulatory powers. Due to a lack of manpower, this authority has not been utilized to any great extent by the State Medical Examiner. The Division of Criminal Justice has proposed legislation which addresses a principal defect in the authority of the State Medical Examiner. More specifically, under present law the State Medical Examiner does not have the power to supersede a regional or county medical examiner. The amendatory legislation would vest the State Medical Examiner with such power, whenever in his opinion the interests of the State will be furthered by so doing.

We favor retention of the position of county medical examiner to perform the various public services required by the counties. However, the legislative proposal contemplates that a county medical examiner will not be permitted to perform autopsies unless he is specifically appointed to do so by the State Medical Examiner. The pathology services in each county, or in each regional facility, will be administered by the State Medical Examiner who will either perform the autopsies or designate a competent pathologist to do so. A qualified county medical examiner may serve as both county medical examiner and as a "designated pathologist" in this proposed two-tiered system.

It is recognized that a critical problem is the lack of facilities, both on the State and county levels. The State Division of Criminal Justice has prepared a master plan to replace the State Medical Examiner Office and laboratory. The plan projects completion by 1981 of a facility six times larger than presently exists, at a cost of 4.6 million dollars. The new complex, to be known as the Institute of Forensic Science, will be located on a two-acre site at the College of Medicine and Dentistry in Newark and will house a more adequate laboratory capability and professional staff than are now available. It is anticipated that this facility will also serve the nearby counties on a regional basis; specifically, Hudson, Essex and Union Counties will utilize these facilities for purposes of autopsy. In other areas of the State, autopsies will be performed only in facilities approved by the State Medical Examiner, employing nationally accepted criteria.

Several significant benefits are expected to result from the planned reorganization of the medical examiner system. More qualified persons will permit investigation of death with a greater degree of sophistication, so that a death of a suspicious nature will be recognized at the beginning of an investigation, and will enhance the ability of law enforcement to detect crime and to apprehend the criminal. An additional benefit to be derived from better scientific equipment and a more adequate staff is that criminal cases will proceed to trial more swiftly. Certainly, where the conclusion of the medical examiner supports a finding of criminality, it is desirable from every viewpoint that the matter proceed swiftly to indictment and trial. Not recognized as readily is the benefit to be gained when the investigation reveals no criminality, thereby removing a cloud of suspicion which may dog the citizen. Lastly, it is contemplated that the reorganized medical examiner system will produce research which should develop new and innovative techniques in forensic science.

#### Private Security

As already stated, there is a need to develop selection and performance standards for the approximately 20,000 police officers now working in our local police departments. In addition to these "regular" officers, there are approximately 550 licensed private detective agencies which employ approximately 45,000 persons. As a result, citizens have more contact, on a regular basis, with private security officers at shopping malls and other places of business and recreation than they do with regular police officers. Public attitudes and opinions of "professional" law enforcement are often determined by their perceptions of these private security personnel.

Governor Byrne stressed this point in the foreword to the National Advisory Committee on Criminal Justice Standards and Goals' Report of the Task Force on Private Security:

The pervasive involvement of private security plays a vital role in efforts to create a safe environment in which to work and live. The interrelation between agencies illustrates the obvious importance of striving to achieve uniformly high standards of quality for both personnel and performance.

Given that relationship it follows that upgrading the industry will enhance the efforts to prevent and detect crime.

Legislation has been prepared which sets forth a comprehensive statutory scheme which is designed to regulate the private security industry. Licensing and regulation provisions will insure that members of this sensitive industry will be of the highest caliber. Strin-

gent training requirements should result in the highest quality of performance. According to the Task Force, it is believed that a large percentage of criminal violators known to private security personnel are not referred to the criminal justice system. In order to coordinate activities between private and public law enforcement agencies for the improvement of crime prevention and detection, the legislation obliges persons regulated under it to promptly report criminal violations discovered by them to the county prosecutor or Attorney General.

### Crime Prevention

For centuries the thrust of our criminal justice process has been crime detection -- the arrest, prosecution, punishment and rehabilitation of apprehended criminals. However, in recent years, the continuously spiraling crime rate has evidenced the limitations of this traditional approach; it is reactive, taking place after a crime has occurred, and placing the criminal justice system at least one step behind the criminal. It is clear that the reactive approach embraced in the past must be strengthened; it must also be supplemented by a preventive plan of action.

Creating a program for crime prevention furnishes fertile ground for the development of far-reaching legislative and administrative solutions. Some progress has already been made on the state level in this area. The Safe and Clean Neighborhoods Programs, under the aegis of the Department of Community Affairs, has been in place for a number of years. Under this program, matching state funds have been spent in 31 urban aid communities in this State to provide for walking policemen. These officers patrol business and residential areas and endeavor to create by their presence a safe environment in which people may shop and otherwise go about their daily business. Affirmative crime prevention activities are an adjunct to that program. While on patrol, the walking policeman will conduct security surveys of business and residential property in order to make recommendations to

citizens on methods to make their homes and businesses less inviting targets for burglars and other intruders.

Affirmative crime prevention steps directed at the county local level include the establishment, with federal funds, of crime prevention units in major urban police departments. These units, called CPU's, offer a wide range of services similar to the efforts of Safe and Clean Neighborhoods Program. Further, a number of regional/county crime prevention resource centers were established to provide audio-visual materials and selected training programs. In addition to these training centers, a substantial number of local police officers have received grants to attend the nationwide Crime Prevention Institute at the University of Louisville, Kentucky.

Concerted government action is not always a prerequisite to all levels of crime prevention -- the community, individuals and business can act to prevent themselves and their families from becoming victims of crimes. However, citizen concern about crime must be translated into action. In a significant number of cases, and largely out of ignorance, the victim of an offense has contributed to his own misfortune by not having taken basic security measures to protect his person and property. Thus, crime prevention is premised on the ability of citizens to reduce the self-imposed opportunities for crimes to occur.

For citizen participation to be effective, however, there must be centralized coordination of programs and allocation of resources. While broad based community involve-

ment and awareness are necessary, the individual citizen must be afforded guidance to channel his participation in a constructive fashion. In short, rather than merely advocating that the public "get involved," the citizenry must be shown exactly what it can do to aid in the crime reduction effort. This is the task of the local police and other law enforcement agencies under the coordination of the county prosecutors.<sup>9</sup> The police must involve and motivate communities and citizens to reduce criminal opportunity. Thus, it follows that the local police officer must be involved and trained in crime prevention.

While the creation of permanent crime prevention units with trained officers rendering direction and assistance to the community would be the ideal, it would be economically unfeasible. Nevertheless, in those departments which cannot establish a unit because of fiscal constraints, all officers should be trained to render crime prevention services as one function of their duties.

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For example, in Morris County the Prosecutor plans to designate a member of his staff as the County Crime Prevention Coordinator, who will provide direction and assistance to local police in establishing community crime prevention programs.

## Sentencing and Parole

Although total elimination of violent crime is not presently within law enforcement's grasp, the incidence of the occurrence of such offenses can be reduced through utilization of effective law enforcement techniques. The judiciary, through its effective utilization of statutorily authorized dispositional alternatives can assist in the fight against violent crime.

One technique is the imposition of terms of incarceration which may serve to deter future misconduct. The new Code of Criminal Justice is a partial legislative solution to this aspect of the problem. As we have previously noted, violent crime may be discouraged by swift justice and by a sentence which is certain in its terms of which is known to the offender prior to the commission of the offense. The new Code of Criminal Justice goes far in providing that certainty. An offender who commits an armed robbery knows full well at the moment of the commission of his offense that he is facing a presumptive term of 15 years imprisonment. The Penal Code has established a scheme of presumptive sentencing which announces to the offender, the courts, and to the public, the actual terms of imprisonment which will be served by those committing violent crimes. Moreover, the Legislature has provided sentencing courts with the ability to impose terms of imprisonment which are not subject to parole, i.e., mandatory-minimum sentences.

While these provisions will serve as a deterrent to violent crime, more can be accomplished in this area. The Criminal Disposition Commission, created by the criminal code, should vigorously pursue other means of utilizing correctional reform as a deterrent to violent crime. We recommend that those convicted of certain enumerated violent crimes be subject to the discretionary ability of the court to impose mandatory minimum sentences. These same individuals should also be subject to extended terms of imprisonment beyond the range of years ordinarily provided for offenses of the grade involved. While the criminal code presently allows for extended terms for those convicted of homicide, or persistent offenders convicted on more than one occasion, we recommend that the commission of other enumerated violent crimes, such as rape and robbery in the first degree render an individual eligible for such treatment. Moreover, the court's ability to impose sentences of imprisonment without parole eligibility should be broadened to include all forms of "street offenses."

Stronger measures are needed to deter the use of firearms during the commission of violent crimes. Statistics reveal the widespread use of firearms during the commission of those violent offenses which most imperil the physical well-being of our citizens. In 1978, 45 percent of all reported murders resulted from the use of a firearm. Firearms were employed in 30.8 percent of all robberies and in 25.6 percent of all atrocious assaults. The experience in Massachusetts, which has had a one-year mandatory-minimum sentence

for mere possession of firearms since 1975, shows a significant decline in gun related violent crimes. New York has recently enacted a similar statute. Consistent with the thesis that the punishment should fit the crime, a mandatory prison term may be unduly harsh in the circumstances of mere possession of a firearm. We firmly believe, however, that mandatory prison terms are certainly an appropriate response where a violent crime is committed with the use of a firearm. Consequently, we propose that legislation be enacted which will provide for nondiscretionary fixed mandatory-minimum sentences for those who use a firearm during the commission of a crime of violence.

Finally, our laws governing parole should also recognize that those convicted of violent offenses ought to be deterred from future misconduct. The parole bill which was recently enacted establishes a system of presumptive parole which provides for certainty in sentencing and, in conjunction with the Penal Code sentencing provisions, provides fair warning to those who would commit violent crimes that their conduct will result in a fixed term of incarceration not subject to reduction. The parole bill is an integral component of the correctional scheme which has been recently put in place by the Code.

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S-1071, now on the Governor's desk, accomplishes this purpose except for its overenumeration of offenses to which its provisions would apply.

### Corrections

Changes in the structure of the criminal law are ultimately felt in the corrections system, the end point of the criminal justice continuum. Revisions of New Jersey's criminal law have underscored the need for more prison space in the prison system. The sentencing structure of the "New Jersey Code of Criminal Justice" imposes longer terms upon particularly violent and persistent offenders. This structure will inevitably result in a long-term population composed of violent and hardened offenders for whom no alternative sentencing programs are available or appropriate. Currently 61 percent of those inmates presently under sentence in New Jersey's prison system have committed offenses against the person. While alternatives to incarceration for non-violent offenders remain an important goal of the Department of Corrections, it appears unrealistic that such programs could greatly reduce our state prison population.

The need to create increased bedspace is derived not only from the anticipated increase in the institutional population, but also from the necessity to provide adequate space and humane conditions of incarceration for all inmates. This means that some existing space in various institutions will need to be upgraded or eliminated to meet national standards. Despite statements to the contrary, it has not been demonstrated that the creation of new prison space prompts judges to impose incarceration upon offenders who would not otherwise be so sentenced. Although alternatives

to incarceration should be developed to the fullest possible extent, those persons under sentence must also be provided with safe, secure and humane conditions of housing.

### Juvenile Justice

Juvenile crime is one of the most serious issues facing our society today. It is a problem which pervades every aspect of our daily lives. The cost of youthful criminality to society in both material and human terms is staggering. It was estimated in 1977 by Senator Bayh that almost 15 billion dollars were lost annually to crimes committed by persons under the age of 25.<sup>11</sup>

Other statistics present an equally grim picture. For example, it was estimated that offenses committed by juveniles account for nearly 50 percent of the nation's serious crime.<sup>12</sup> More significant from a criminal justice standpoint is the estimate that nationally six percent of those juveniles are committing the majority of the juvenile offenses.<sup>13</sup> The lamentable implication of these figures is that we are faced with what amounts to a juvenile career criminal crisis.

It has been fashionable of late to urge the complete abolition of our present juvenile court system and the treatment of all juvenile offenders exactly as their adult counterparts. Such an approach would "give up on" the 94 percent of those youthful offenders who can

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<sup>11</sup> Bayh, New Directions for Juvenile Justice, 13 Trial 23 (1977).

<sup>12</sup> Juvenile Delinquency Annual Report, Report of the Committee on the Judiciary/United States Senate, Subcommittee to Investigate Juvenile Delinquency 25 (1976).

<sup>13</sup> Wolfgang, M.E., Figlio, R.M., and Sellin, T., Delinquency in a birth cohort, Chicago: University of Chicago Press, 1972. Strasburg, Paul A., Violent Delinquents, New York: The Ford Foundation, 1978.

still benefit from the juvenile court process. It would, in effect, needlessly propel all juvenile offenders into the adult criminal process. This is not to say, however, that hardcore individuals who are young in years but not in criminal sophistication should be allowed to manipulate the juvenile system to escape responsibility for their criminal acts. Rather than abolishing our present system as a whole, it must be preserved and probably modified for those who can still benefit from it and be spared from those who are beyond its reach. (A discussion of this issue follows.) Violent and recidivistic youths on the other hand should be removed from its jurisdiction and subjected to the full rigors of the adult criminal process. This serves not only to protect society from the serious criminal transgressors and deal more effectively with such individuals, but also serves to preserve the integrity of the juvenile court.

Specifically, New Jersey's juvenile waiver statute<sup>14</sup> must be aggressively utilized in appropriate prosecutions.

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<sup>14</sup> Our present juvenile system provides for the transfer of jurisdiction to the adult criminal process under the following circumstances, even over the juvenile's objection:

- If the alleged delinquent is fourteen years of age or older at the time he commits the offense;
- If there is probable cause to believe that:
  - a. The juvenile committed a homicide or treason; or
  - b. The juvenile committed an offense against the person in an aggressive, violent and willful manner; or
  - c. The juvenile dispensed or distributed a Schedule I or II narcotic drug, and is not an addict.
- If the adequate protection of the public requires waiver; and
- If there are no reasonable prospects for rehabilitating the juvenile through the juvenile court process prior to his reaching the age of majority.

As presently constituted, however, the involuntary waiver criteria may not be sufficiently expansive to remove all those from the juvenile court's jurisdiction who do not properly belong there. We advocate legislation broadening the existing waiver criteria to include not only juveniles 14 or older who commit offenses directly involving violence, but those who threaten violence, or who attempt or conspire to commit such offenses. Additionally, repeat offenders upon whom the juvenile court process obviously had no deterrent effect should be relegated to the adult court. Lastly, a juvenile who has been convicted and has served a sentence in an adult penal institution is an appropriate candidate for waiver for subsequent criminal acts.<sup>15</sup>

A necessary predicate to the expanded use of New Jersey's waiver statute is the ability to identify with specificity those youths who merit this treatment. In order to achieve that level of discrimination we propose the adoption of a career juvenile offender program in those county prosecutors' offices where the need is demonstrated.<sup>16</sup>

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The County Prosecutors' Association has proposed a similar recommendation regarding waiver. In addition, the Association proposes altering confidentiality statutes by permitting access by law enforcement agencies and expanding the situations in which fingerprints of juveniles can be taken and exchanged among law enforcement agencies.

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Such a program has been in place in Passaic County and has produced favorable results.

Having identified what we believe to be the most salient feature of the juvenile justice problem as it relates to the criminal law and as it relates to the rising street crime statistics, we feel it essential to make certain observations regarding the remainder of the problem.

Clearly, it is not just the hard core recidivist that winds up in harm's way. The fact that a small hard core account for criminal behavior far beyond their disproportionate representation in the juvenile criminal population is of no consolation to the victims of the remainder. The problem we face, however, is how to deal with that remainder.

Any approach to juvenile crime must take account of the fact that adolescents who commit crimes are not necessarily earmarked for careers as adult criminals. It has long been shown that re-educated juveniles readjust to their communities at a much higher rate of success than do adults. Indeed, the Juvenile Court was originally established to serve the best interests of the juvenile consistent with public safety. It does not undercut a law and order position with regard to the hard core recidivist juvenile to suggest that the remainder ought to be the objects of vigorous rehabilitation efforts.

At the present time, however, there are a number of obstacles inhibiting the progress of the juvenile justice system, necessitating a closer look at how the system works. First and foremost of course is the rise in juvenile and violent juvenile crime. Thus, the Court faces a question of the public's right

to protection. Secondly, the various components of the juvenile justice system have become fragmented. The Division of Juvenile Services is a minor division within an adult correctional system; its aftercare and parole services are divided among two separate agencies (DYFS and Adult Central Parole); its planning function is vested in a third agency (SLEPA). In addition, it has no formal link to either the State education or mental health system, although it is legally mandated to provide education for all juveniles under the age of sixteen and treatment opportunities for those who require help. Status offenders are served at a county level through the Juvenile Court and by DYFS but not through the Division of Juvenile Services. And, finally, there is no high level central authority to act as a link between these components and to examine the issue of coordination.

This office has begun an across-the-boards analysis of the existing juvenile justice system - its component parts, its population, and the inherent limitations of its fragmented structure. All involved governmental agencies should be encouraged to aid in this study,<sup>17</sup> with the hope that it will for the first time provide an in-depth individual profile of the juvenile population currently within the system. Of critical importance to

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At this time the County Prosecutors' Association and the Assembly Judiciary Committee are also looking into this area.

the success of any approach to this problem is the ability to discriminate among juveniles -- the immoral from the amoral, the sick from the asocial, the repeater from the prankster.

In sum, these issues must be addressed by those with direct responsibility for them. The interplay of issues and the consequent need for an interagency approach in the juvenile justice area highlights our growing awareness of the limits of the criminal sanction.

**END**